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Summary record of the 34th meeting
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Chairman: Mr. Kuchinsky ..... (Ukraine)
later: Ms. Kusorgbor, Vice-Chairman ..... (Ghana)
later: Ms. Groux, Vice-Chairman ..... (Switzerland)

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The meeting was called to order at 9.45 a.m.

Agenda item 98: Advancement of women (*continued*) (A/C.3/59/L.26)

Draft resolution A/C.3/59/L.26: Future operation of the International Research and Training Institute for the Advancement of Women

1. **Mr. Al-Sulaiti** (Qatar), introducing draft resolution A/C.3/59/L.26 on behalf of its sponsors, pointed out that, despite human- and financial-resource constraints, the International Research and Training Institute for the Advancement of Women had completed the first phase of its revitalization within 10 months of the appointment of its new Director. He was convinced that, with cooperation from all Member States, the Institute would be able to surmount its current difficulties and urged them to make voluntary contributions to its trust fund, particularly during the current critical transition, so as to help the Institute to fulfil its mandate. He read out the revisions made by the Group of 77 and China. At the end of paragraph 2, they had added the words "particularly to address the challenges facing women in developing countries and least developed countries in all regions". In addition, after paragraph 4, a new paragraph should be inserted with the following wording: "*Requests also* that the Institute in the formulation of the future programme and the projects take into account the particular challenges facing women in developing countries and least developed countries in different regions;".

Agenda item 105: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*) (A/C.3/59/L.31)

Draft resolution A/C.3/59/L.31: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

2. **Ms. Olivera** (Mexico) introduced draft resolution A/C.3/59/L.31 on behalf of its sponsors, now joined by Azerbaijan, El Salvador, Indonesia, Nicaragua, Paraguay, Peru, Senegal and Uruguay. Stressing that the entry into force in July 2003 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had been a historical achievement in the international context of protecting migrant workers' rights, she urged Member States to take measures for its practical implementation. The draft resolution covered several important aspects such as promotion of the ratification of the Convention with a view to making it universal, its effective implementation by all States parties, and the proper functioning of the Committee established under the Convention. Given the time it would take to achieve those objectives and conduct a more analytical appraisal, and with a view to streamlining the work of the Third Committee, her delegation proposed that the matter should be revisited at the sixty-first session of the General Assembly. She hoped that the draft resolution could be adopted without a vote.

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/59/255, 319, 320, 323, 327, 328, 341, 360, 366, 377, 385, 401, 402-404, 422, 428, 432, 436 and 525)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/59/256, 269, 311, 316, 340, 352, 367, 370, 378, 389 and 413; A/C.3/59/3 and 4)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/59/36)

3. **Mr. Wenaweser** (Liechtenstein), after reviewing the institutional progress that the United Nations had made with the convening of global conferences on human rights, the creation of the Office of the United Nations High Commissioner for Human Rights, the adoption of the Universal Declaration of Human Rights and the elaboration of core human rights instruments, noted that, in practice, much remained to be done to guarantee the effective enjoyment of those rights around the world. Too often, Governments cared about human rights only in times of peace, and that was incompatible with the principle that human rights, peace and development complemented each other.

4. Political will was always central to human rights work. Some Governments continued to deny citizens their basic rights, in violation of international standards to which they had voluntarily subscribed. Pressure must be put on such Governments to accept the dignity of every individual as a core principle for which the United Nations stood. Equally, States that did not treat

human rights as a priority had to be helped to understand that the promotion and protection of human rights were indispensable to long-term sustainable development.

5. Emphasizing that the High-level Panel on Threats, Challenges and Change should not be expected to provide magical solutions, he urged Member States to recognize the limitations of the Organization and to institute radical reforms that would make it more effective and relevant. Human rights must play a prominent role in the overhaul of the system. Members of the Commission on Human Rights, the leading intergovernmental body of the United Nations, knew how incapable that body was of carrying out its assigned mandate because of the sterile political discussions it conducted yearly at the expense of the cause of human rights it had been designed to promote.

6. The absence of clear criteria for the appraisal of country situations led to highly political discussions which adversely affected the work carried out in the thematic areas of standard-setting, monitoring and technical assistance. His delegation felt that the Commission should confine its work to thematic areas and that a new body should be established to deal exclusively with country-specific issues or that task should be entrusted to an existing body such as the Third Committee.

7. **Mr. Mavroyiannis** (Cyprus), after stating his delegation's support for the views expressed by the representative of the Netherlands on behalf of the European Union, said that his comments would be confined to human rights concerns deriving from the division of Cyprus following the Turkish invasion of 1974 and the subsequent military occupation of 37 per cent of its territory.

8. He noted from the report submitted by the Secretary-General on 19 April 2004 (E/CN.4/2004/27) that the division of the island had an adverse impact on the enjoyment of human rights in respect of freedom of movement, property rights, the situation of Greek Cypriots enclaved in northern Cyprus, and missing persons.

9. Nor, as the Committee on the Rights of the Child had noted in its report of July 2003 (CRC/C/15/Add.205), had the partition allowed for assessment of the human rights situation on the island as a whole.

10. At a time of wide recognition that the protection of human rights and the rule of law were the foundations of democracy and sustainable development, human rights were being violated in many countries undergoing crises or emerging from conflict. The Government of Cyprus welcomed the introduction of a human rights-based approach in the work of all United Nations agencies, funds and programmes, because only by so doing could they create circumstances conducive to lasting peace, stability and development.

11. Cyprus was working hard to improve the degree to which it honoured its human rights obligations internationally and nationally, and regretted that it was not in a position to apply its policies to the whole of its territory and to enforce the Convention in those sectors outside its control.

12. While the easing of restrictions of movement across the country and the reopening of the secondary school in Rizokarpaso were promising signs, much remained to be done for enclaved persons to enjoy all their basic rights.

13. Concerned by the fate of missing persons, the Government of Cyprus welcomed the resumption of the work of the Committee on Missing Persons and hoped that nothing else would impede the resolution of that humanitarian issue.

14. Being sensitive to violations of property rights and freedom of settlement, Cyprus subscribed to the draft principles in the Special Rapporteur's progress report on housing and property restitution for refugees and displaced persons which stressed, among other things, the right to freedom of movement and residence, the right of all displaced persons to return voluntarily to their former homes, lands or places of origin in safety and dignity, as well as their right to use and peacefully enjoy their property. Applying those principles would make it easier to address the crux of the Cyprus problem.

15. Only through the withdrawal of foreign military forces from Cyprus could an end be put to human rights violations and only by guaranteeing the effective enjoyment of human rights by all its citizens could a lasting solution to the problem be found. The vote of Turkish-Cypriots in favour of the Secretary-General's plan did not mean that Turkey had honoured its obligations in the reunification process or with regard to human rights. Only by withdrawing from the island,

respecting international rules of human rights and abiding by the Security Council resolutions on Cyprus and international law could Turkey contribute to reunification and reconciliation. The accession of Cyprus to the European Union and the aspiration of Turkey to become a European Union member opened up new prospects that should be explored to find a solution in line with human rights law and the European Union's *acquis*.

16. **Mr. D'Alotto** (Argentina), after emphasizing that human rights were one of the pillars of Argentine society, said that his country was committed to strengthening the universal system for promoting and protecting such rights, particularly through such mechanisms as monitoring, special rapporteurs and independent experts. As proof of its commitment, Argentina had invited all the mechanisms of the Commission on Human Rights to visit the country and, in 2003, had welcomed the independent expert on the right to development and the Working Group on Arbitrary Detention.

17. With regard to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Argentina had responded to all the communications it had received (see document E/CN.4/2004/7/Add.1) and welcomed the new Special Rapporteur's decision to include replies from Governments in his reports.

18. Despite undergoing a serious political, economic and social crisis, Argentina had continued to respect its commitments concerning the effective enjoyment of human rights, thereby laying the foundations for sustainable development based on equality and social justice. Given the current international context, the United Nations must play an increasingly active role in protecting human rights. His Government was ready to continue cooperating with all international human rights mechanisms.

19. **Mr. Kleib** (Indonesia) recalled that one of the purposes of the United Nations, as laid down in Article 1 of the Charter, was to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all. Moreover, in the Millennium Declaration, the heads of State and Government had rededicated themselves to supporting all efforts to uphold the sovereign equality of all States, respect for their territorial integrity and political independence, resolution of disputes by peaceful means, and non-interference in the internal affairs of States.

20. In order to promote international cooperation on human rights, account must therefore be taken of the principles of impartiality, objectivity and respect for the views of other Member States. He regretted that the Committee had been diverted from the ideal of international cooperation, as demonstrated by the remarks made by the representative of the Netherlands on behalf of the European Union at the Committee's 24th meeting. His Government called on Committee members to comply with internationally agreed human rights instruments, such as the Vienna Declaration and Programme of Action, adopted in June 1993, rather than make public accusations or publish a long list of human rights violations committed by Member States.

21. Pursuant to article 71 of the Vienna Declaration, in 1998 Indonesia had introduced its National Plan of Action on Human Rights, consisting of concrete steps to promote and protect human rights over a five-year period, during which it had made significant progress. In 2000, the Constitution had been amended to provide a stronger foundation for the effective implementation of human rights. On 25 August 2004, Indonesia had launched its second Plan of Action for the period 2004-2009, drawn up in cooperation with Indonesia's National Commission on Human Rights, government officials, academics, members of Parliament and civil-society representatives. The second plan consisted of six pillars: establishment of a national mechanism to promote and protect human rights; preparation for ratification of international conventions; dissemination of information and education on human rights; harmonization of national legislation; implementation of standards; and monitoring and evaluation of — and reporting on — human-right activities. The plan of action had already yielded results, as, on 22 September 2004, Indonesia had signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

22. The promotion of human rights and the improvement of democracy went hand in hand. Indonesia had held three elections in 2004, one of which had been the first presidential election, in which almost 120 million people had cast their vote.

23. His delegation believed that extreme poverty was the worst human rights violation and therefore called on all States to work towards its eradication. Human

rights and human development shared a common purpose: they promoted dignity, equality and well-being for all, hence the right to development. Indonesia therefore looked forward to the General Assembly's review of the implementation of the Millennium Development Goals in 2005.

24. Indonesia believed that international cooperation was essential to promoting human rights and called on Member States to avoid double standards and begin by better protecting human rights at home. Such action would ensure that discussions in the Commission on Human Rights and the General Assembly would be more productive in the future.

25. **Ms. Rasheed** (Observer for Palestine) said that the promotion and protection of human rights were essential to peace, prosperity and justice in any society. It was therefore distressing to have to address the Committee year after year regarding the plight of the Palestinian population, whose rights continued to be denied. Her delegation welcomed the unwavering commitment shown by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 in revealing the deplorable situation of the Palestinian people under Israeli occupation.

26. The occupation had been transformed into a brutal form of colonization, denying the Palestinian people their fundamental rights. She also referred to the plight of Palestinian refugees, who had endured great injustices for over 50 years.

27. Throughout the period covered by the report, Israel had continued relentlessly to commit human rights violations, war crimes and State terrorism against the Palestinian people. Over 3,440 Palestinians, including women and children, had been killed since September 2000 and more than 50,000 had been injured, thousands of whom had been permanently disabled. The occupying Power had continued to detain thousands of people, subjecting them to severe harassment, abuse and even torture. Today, more than 6,000 Palestinians (including many women and children) were being held in Israeli detention centres in deplorable conditions. Checkpoints, closures and curfews had had a major impact on the Palestinian economy. Such policies had prevented hundreds of thousands of Palestinians from going about their daily business for prolonged periods, while the restrictions imposed on freedom of movement were a source of constant humiliation and suffering.

28. The occupying Power had also continued with the widespread destruction throughout the Occupied Palestinian Territory, including East Jerusalem, of homes and infrastructure, including water and electricity networks, particularly in the Rafah refugee camp. The destruction of property in connection with the building of the wall had been extensive, leaving thousands of Palestinians dispossessed. In its Advisory Opinion of 9 July 2004, the International Court of Justice had ruled that the wall was illegal, violated humanitarian and human rights law, and undermined the Palestinian people's right to self-determination. The building of the wall must be seen in the context of Israel's 37-year-old illegal settlement campaign throughout the Occupied Palestinian Territory, including East Jerusalem; there were now close to 400,000 illegal settlers in the Occupied Palestinian Territory.

29. Furthermore, over the past four years in particular, armed illegal settlers had caused the destruction of Palestinian land and homes, as well as many deaths and injuries among the Palestinian population. It was clear that such settlers were permitted by the occupying Power to act with impunity and total disregard for the human rights of the Palestinian people.

30. The only way to ensure that the Palestinian people would be granted their fundamental rights was to bring an end to the occupation and establish a Palestinian State with East Jerusalem as its capital. Her delegation urged the international community to adopt a stronger stance on Israel's illegal policies against the Palestinian people. There could be no neutrality in the struggle against oppression, injustice, occupation and colonialism.

31. **Mrs. Holguín Cuéllar** (Colombia), speaking under agenda item 105 (b), said that she welcomed the interim report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/59/319). A number of positive aspects could be highlighted, including cooperation between Governments and field missions. However, given that the Special Rapporteur considered field missions to be a central element in discharging her mandate and stressed the need systematically to check the reliability of the information acted upon, her Government was

surprised that, even though she had not visited Colombia, she had mentioned it several times in her report.

32. Her delegation emphatically rejected paragraph 40 of the report, which affirmed — without foundation — that paramilitary or self-defence groups were reportedly tolerated or supported by the Government, and that killings continued unabated and without any intervention by government forces. Her Government did not tolerate or support self-defence groups. Since President Uribe had come to power in 2002, losses suffered by such groups during combat with the Colombian armed forces had risen by 230 per cent, captures by 300 per cent and the seizure of weapons and ammunition by 287 per cent and 218 per cent respectively. Killings committed by those groups had fallen by more than 70 per cent as a result of the Government's policy of democratic security aimed at protecting the Colombian people, in particular politicians, union leaders and human rights defenders. Moreover, as a result of the peace process initiated by the Government, the self-defence groups had declared a ceasefire and cessation of hostilities. The number of internally displaced persons had also fallen by over 50 per cent since 2002. Self-defence groups were not the only ones to commit atrocities; other illegal armed groups, benignly called "guerrilla movements" in the report, committed similar acts and were confronted with equal determination by her Government. Since 2002, losses suffered by "guerrilla groups" during combat with the Colombian armed forces had risen by 63 per cent, captures by 223 per cent and the seizure of weapons and ammunition by 97 per cent and 195 per cent respectively.

33. In response to the comments made by the new Special Rapporteur on extrajudicial, summary or arbitrary executions, according to which "guerrilla groups" were not included because the report did not deal with non-State actors, her delegation wished to make it absolutely clear that self-defence groups were not State actors. Both "guerrilla groups" and self-defence groups were violent groups dedicated to drug trafficking, and a source of terror and instability in the country. Impunity and human rights violations could not be dealt with efficiently with false information. The United Nations should therefore look closely at the reality in each country and corroborate information obtained from the media and non-governmental organizations, without forgetting that the central pillars of a stable international system were the principles of sovereignty, sovereign equality and non-intervention.

34. **Mr. Wali** (Nigeria) welcomed the Secretary-General's report on regional arrangements for the promotion and protection of human rights (A/59/323) and commended the Office of the High Commissioner for Human Rights (OHCHR) for its efforts to help the African Union strengthen its human rights system and its subregional representation.

35. Noting that close cooperation had been established between the African Commission on Human and Peoples' Rights and the Office of the High Commissioner, and that subregional centres had been set up, he said that efforts to establish a subregional centre in West Africa should be stepped up, with a view to stabilizing the subregion. Consideration of human rights issues too often over-emphasized political and civil rights, to the detriment of economic, social and cultural rights. Since most of the world's population lived in developing countries, the right to food and the right to development should be given central place.

36. Since the end of military rule in 1999, Nigeria had tried to ensure that the benefits of democracy were reflected in the economic, social and cultural welfare of its people, as well as to strengthen the promotion and protection of human rights, as demonstrated by the adoption of the law implementing the Convention on the Rights of the Child and the enactment of the law against trafficking in women and children. His Government had set up a national commission on human rights, which was an independent body responsible for receiving complaints and seeking redress for those whose basic human rights had been violated.

37. His delegation wished to refute the statement made by the representative of the Netherlands, on behalf of the European Union, to the effect that Nigeria was one of the few countries that retained capital punishment and was also a strong advocate of execution. No public execution had taken place in Nigeria since 1999, and stoning was no longer practised even though Sharia law still prevailed in some regions. The National Assembly had been debating the issue of capital punishment and would be considering a report submitted by a national study group set up in November 2003. Capital punishment was a constitutional issue. Should the National

Assembly decide to adopt a law abolishing the death penalty, the Government would take the necessary action. Lastly, he said that the mandates of the special procedures should be more closely defined, in order to ensure that their reports enjoyed broad acceptance. Moreover, the rapporteurs should not forget that their mandates were the creation of the Commission on Human Rights, to which they were entirely answerable.

38. *Ms. Kusorgbor (Ghana), Vice-Chairman, took the Chair.*

39. **Mr. Daratzikis** (Greece), speaking on agenda item 105 (b), said that his delegation fully aligned itself with the statement made by the Netherlands on behalf of the European Union. His own statement would be entirely concerned with the human rights situation in Cyprus. The Cyprus question should be settled in just and viable manner in accordance with the principles and the established laws and practice of the European Union, and the relevant Security Council resolutions. In order to achieve sustainable reconciliation and reunification, it was essential to restore the human rights and fundamental freedoms of all Cypriots.

40. In the wake of the invasion of the Republic of Cyprus and the subsequent occupation of 37 per cent of its territory by Turkish military forces, violations of human rights and fundamental freedoms had given increasing cause for concern, and included violations of the rights of displaced persons, the human rights situation of enclaved persons in the northern part of Cyprus, and the rights of relatives of missing persons. The European Court of Human Rights had issued important rulings that recognized Turkey's responsibility for a variety of human rights violations relating to the military occupation of Cyprus. Notable in that regard were the judgements of Cyprus v. Turkey (2001) and Loizidou v. Turkey (1996). One third of the Cypriot population aspired to a fair settlement of the problem that would allow them full enjoyment of their property rights and their right of return. Greece was deeply concerned at the human rights situation of enclaved persons in the northern part of Cyprus. Of the 20,000 Greek Cypriots who had chosen to remain in the occupied area following the invasion, less than 500 had managed to do so.

41. Despite the commitments made in the 1975 Vienna III Agreement, Turkey's forces and its administration had, on 3 June 2000, imposed a series of restrictions on the United Nations Peacekeeping Force in Cyprus (UNFICYP), and the violation of the status quo in Strovilia persisted even though the Security Council resolutions — notably resolution 1331 (2000) — had called for the restoration of the military status quo ante. Lastly, the island's cultural heritage had been systematically plundered, including the destruction of 500 Greek Orthodox churches and the smuggling abroad of works of art.

42. Since 1974, more than 110,000 Turkish settlers had been illegally transplanted to the occupied part of the island. Together, the settlers and the 35,000 troops of the Turkish occupation by far outnumbered the Turkish Cypriot population. The policy of colonization implemented in Cyprus, which was clearly designed to alter the island's demographic balance and structure, was contrary to the Treaty concerning the Establishment of the Republic of Cyprus, and constituted a war crime under the Geneva Conventions of 1949.

43. The problem of missing persons remained unresolved, despite the efforts of the Government and the families of those missing. It was to be hoped that the Committee on Missing Persons, which had recently resumed its activities, would achieve a solution.

44. In conclusion, he said that the restoration of human rights and fundamental freedoms was central to the achievement of a lasting, comprehensive and just solution to the Cyprus problem.

45. **Mr. Al-Sulaiti** (Qatar) recalled that fundamental human rights, the dignity and worth of the individual and gender equality lay at the core of the Charter of the United Nations.

46. By strengthening democracy, popular participation and the primacy of law, his Government had given a prominent place to human rights and to the individual in society. Under the Constitution, all citizens were accorded equal rights and responsibilities, and torture was a crime. The Constitution also guaranteed the right of association, freedom of opinion, freedom of scientific research, freedom of the press and freedom of worship, and accorded all citizens the right to education. An advisory council, whose members would be elected without gender discrimination, would soon be set up.

47. Qatar was determined to strengthen fundamental human rights, and had recently set up a national

commission on human rights, which coordinated activities with OHCHR and other intergovernmental and non-governmental organizations.

48. In 2004 Qatar had hosted a regional seminar for Asia and the Pacific on regional cooperation for the strengthening and protection of human rights, and organized a seminar on inter-religious dialogue as the best way to strengthen understanding among all peoples. Qatar was determined to play its part in the promotion, strengthening and dissemination of human rights, and had accepted the offer of OHCHR to set up in Qatar a regional committee on human rights training and documentation.

49. **Mr. Mohd Radzi** (Malaysia), speaking on agenda items 105 (b) and (e), welcomed the attention and level of support that had been pledged to the right to development, but joined with the representative of India in wondering how exactly OHCHR defined that right. To mainstream human rights into development efforts was not the same as to mainstream the right to development into the promotion and protection of all human rights. As the independent expert had noted, the right to development was the right to participate in a particular development process, in which all human rights and fundamental freedoms could be fully realized. However, the realization of those rights and freedoms depended on the availability of resources, as well as on individuals' access to the necessary goods and services. According to the information submitted by the Working Group on the Right to Development, progress had been achieved in that regard.

50. In accordance with General Assembly resolution 58/186, the Special Rapporteur on the right to food had once more drawn the Committee's attention to the continuing destruction and expropriation of Palestinian land and crops in the occupied Palestinian territories caused by the military operations and the construction of the separation wall. The violations of the human rights of Palestinians, especially women and children, must not be ignored by the international community, and the more influential Member States should persuade Israel to bring its actions to an end. Lastly, he said that the activities of some private actors, particularly international corporations, might be construed as support for the violations committed.

51. With respect to torture, he said that his country fully supported the special procedures. However, in order to be credible and respect their mandates, the special rapporteurs and independent experts must be able to carry out their mandates in a fair, objective and non-selective manner.

52. Protecting and promoting human rights and guaranteeing the fundamental rights and freedoms of the individual were cornerstones of Malaysia's governance. Citizens' rights were enshrined in the Constitution and protected by law. In that regard, Malaysia had established a national commission on human rights and an inter-agency coordinating committee in the Ministry of Foreign Affairs. Malaysia was also considering accession to the International Convention on the Elimination of All Forms of Racial Discrimination and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

53. **Ms. Groux** (Switzerland) welcomed with great interest the launch of the "Action 2" initiative, a pillar of the Secretary-General's reform programme in the area of human rights. Switzerland was actively involved in promoting reforms designed to improve the functioning of mechanisms for the protection and promotion of human rights at the global level and, in that connection, she recalled that the question of human rights still occupied too modest a place within the United Nations, owing in particular to institutional imbalances, which should be corrected. She also attached importance to discussions on the reform of the treaty-monitoring bodies and welcomed with interest the High Commissioner's plan to establish within his Office an early warning service to promote prevention.

54. Her delegation, concerned about the concealed threat to human rights posed by the fight against terrorism, was afraid that a mechanism for listing suspected terrorists would be implemented without accompanying measures for the protection of human rights. Some rights must not be violated: the prohibition of torture was absolute, including in the context of the fight against terrorism. Switzerland, which had signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 25 June 2004, was concerned that certain decision makers, particularly in democratic countries, were publicly considering relaxing that prohibition. It took the view that only strict compliance with international law would make it possible to fight effectively against the scourge of terrorism and that such a fight must be

coupled with an effective fight against poverty and the promotion of democracy and the rule of law.

55. While her delegation welcomed the growing number of private companies committed to responsible policies that respected human rights, it regretted that that commitment continued to evolve in an overly vague and arbitrary manner, and advocated an open and transparent debate with a view to gaining a better understanding of the role of companies in the protection and promotion of human rights. Her delegation had therefore co-sponsored the text on that issue submitted at the previous session of the Commission on Human Rights.

56. She commended the unambiguous comments on the death penalty made by the Secretary-General in his report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) and, recalling that even the most successful judicial systems were not infallible and that the effectiveness of the death penalty in the fight against terrorism had not been proven, welcomed the fact that, over the past few years, several States had abolished the death penalty or introduced moratoriums on executions.

57. **Ms. Olivera** (Mexico) reaffirmed her country's commitment to the protection of human rights and pointed out that, in the context of its foreign policy, Mexico had opened itself up to cooperation and international monitoring in that area. It had also been visited by 15 special rapporteurs and working groups from the United Nations and the Organization of American States. The 388 recommendations that they had made and which had now been implemented, together with the expert opinion prepared on 8 December 2003 by the Office of the High Commissioner in Mexico within the framework of the technical-cooperation agreement, formed the basis for the National Human Rights Programme, which was due to be introduced in December 2004. That Programme was a perfect example of how cooperation with the international community could facilitate the strengthening of human rights in various countries.

58. While Mexico was convinced that terrorism posed a serious threat to the territorial integrity and security of States, it took the view that the obligation incumbent upon States to protect their citizens from acts of terrorism could not justify the suspension, violation or annulment of the fundamental rights of individuals subject to their jurisdiction. Far from hindering the prevention of terrorism, human rights should be used as a tool to fight against that scourge. For that reason, Mexico had called on the General Assembly and the Commission on Human Rights to adopt resolutions along those lines.

59. Her delegation was concerned about the conclusions of the study conducted by the Office of the High Commissioner, which suggested that the United Nations had been unable to address the issue of counter-terrorism measures from the perspective of international human rights obligations in an exhaustive and comprehensive fashion. In that connection, it welcomed the designation by the Commission on Human Rights of an independent expert to assist the High Commissioner in studying the compatibility of national counter-terrorism measures with international human rights obligations (Commission decision 2004/87) and urged Member States to cooperate fully with the expert.

60. Wishing to see all social groups, including the most vulnerable, exercise their fundamental rights on the basis of equality and without discrimination, Mexico had worked actively to implement initiatives designed to standardize the protection of those rights, particularly in respect of migrants and disabled persons. Accordingly, it was submitting three draft resolutions at the current session of the General Assembly. The first addressed the universalization of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the importance of which she underlined; the second dealt with the promotion of the fundamental rights of all migrants; and the third concerned the need to continue efforts towards the adoption of a comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities, an indispensable instrument.

61. *Ms. Groux (Switzerland), Vice-Chairman, took the Chair.*

62. **Mr. López Clemente** (Cuba), speaking on agenda item 105 (c), expressed concern that the former colonial Powers were maintaining their conquering and domineering attitude towards the Southern countries while overlooking the flagrant violations of fundamental rights committed within their own territories. He reaffirmed that the protection of sovereignty and the respect for the right of peoples to

self-determination must constitute the cornerstone of action taken and that the diversity of cultures, religions and political, economic and social systems was the greatest source of wealth.

63. He condemned the attitude of the European Union, pointing out that it was common knowledge that acts of racism, racial discrimination and xenophobia were on the increase there, a trend that had become more pronounced since 11 September 2001. Since then, in line with the infamous "clash of civilizations" approach, the prevailing ideology had been to consider any person of foreign descent a potential terrorist or an "at-risk" individual. Furthermore, the growth of trafficking in drugs and human beings in all the European countries had repercussions, and very few European politicians had escaped accusations of corruption, proof that so-called Western democracy was not infallible. In its recent statement, as well as hurling shameful untruths at Cuba, the European Union had reaffirmed at every possible opportunity its commitment to the elimination of torture and other inhuman treatment. The previous two years, however, had suggested the reverse: while the States members of the European Union that had allied themselves with the world's primary super-Power in the illegal invasion of Iraq had not hesitated to urge the Commission on Human Rights to focus on the humanitarian situation in that country, they had opposed the adoption of a draft resolution condemning the arbitrary detentions in Guantánamo and had voted against the adoption of a text in the Economic and Social Council calling for an end to the torture of prisoners on the pretext of the fight against terrorism.

64. His delegation also called into question the position of Canada, which for many years had appealed for humanitarian action and invoked the duty of protection but had failed to follow its own advice in the case of international military operations undertaken without regard for international law in the name of the international fight against terrorism. Faced with images of acts of torture inflicted on prisoners and bombardments that had caused over 100,000 civilian deaths in Iraq, Canada had not lifted a finger to prevent those excesses. And, even worse, like its European friends, Canada had opposed any explicit condemnation by the United Nations of such acts.

65. He condemned the position of delegations that had demonized his country in the Third Committee, behaviour that illustrated the manipulation of international cooperation in the area of human rights and represented an insurmountable barrier to the realization of all human rights, transforming the international debate into an instrument of domination. Recalling that the Northern countries did not have a monopoly on freedom and democracy, he said that, in order to change the global status quo, it was imperative to overturn the prevailing international order, which was unjust, unbalanced and one-sided.

66. **Mr. Zeidan** (Lebanon) said that his country, which comprised a multiplicity of communities, embraced the values of pluralism, freedom, democracy and civil liberties and was firmly committed to respecting human rights, despite the difficulties.

67. Concerning the regional arrangements for the promotion and protection of human rights which were considered in the report of the Secretary-General (A/59/323), he said that Lebanon welcomed the regional strategies of the Office of the United Nations High Commissioner for Human Rights aimed at enhancing its response to the human rights needs of the Arab countries through the Regional Office in Beirut. He referred to the examples of the workshops on the Convention on the Elimination of All Forms of Discrimination against Women and on violence against women, organized in 2004 in Beirut, and referred to the recently adopted Arab Charter on Human Rights and to the official Arabic-language web site on Arab human rights.

68. On the situation of human rights in Palestine, his delegation extended its gratitude to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 for his courageous exposure of the situation (A/59/256) and reasserted the need for a just and comprehensive solution to the conflict in accordance with General Assembly resolutions, especially a just solution to the refugee problem guaranteeing the right of return of the Palestinian people to their land.

69. Concerning respect for the fundamental rights of women, he said that the authorities of his country were working to promote women's rights and that two women had been appointed to the Lebanese Cabinet in 2004. With respect to torture, Lebanon, which had acceded on 5 October 2000 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, called for the cooperation of

the international community with the Special Rapporteur on the question of torture.

70. On human rights in the context of the fight against terrorism, his delegation recalled the urgent appeals of the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning acts committed by States under the guise of the fight against terrorism, including collective punishments, bombings and targeted assassinations in areas populated by civilians.

71. His delegation welcomed the efforts that had been made to explore new forms of migration management in a multilateral perspective. In conclusion, he stressed once again the importance of a human rights-based approach in the drafting of the convention on the rights and dignity of persons with disabilities.

72. **Mr. Butagira** (Uganda) welcomed the launching of the "Action 2" initiative, recalling that for nearly 10 years his country had suffered all forms of violations of human rights committed by successive dictatorial regimes, and the destruction of the political, social and economic infrastructure by the Governments in power at the time. In 1986, when the National Resistance Movement had taken over power, Uganda had embarked on a new era with promotion and protection of human rights as a priority, in particular through the incorporation into national law of the provisions of relevant international conventions. A number of protection systems were in place in Uganda to ensure human rights, including the Uganda Human Rights Commission, the Inspectorate-General of Government, the law courts, the land tribunals, a national parliament and district councils. Freedom of expression was also protected, and the media were independent. Uganda had also mainstreamed human rights into the poverty-eradication action plan, and civil society was also involved in the promotion and protection of human rights.

73. In March 2004 Uganda had submitted its initial report on the implementation of the International Covenant on Civil and Political Rights to the Human Rights Committee. In order to minimize delays in submitting future reports, the Government had embarked on training and capacity-building in human rights reporting for relevant personnel.

74. He then addressed the issue of the rebel group known as the Lord's Resistance Army (LRA), which had been responsible for acts of terrorism against the people of northern Uganda and various atrocities including abduction, maiming, sexual abuse and murder, committed in particular against women and children. The Government had fought a lone battle against the group, calling in vain for dialogue, and had been obliged to have recourse to a "carrot and stick" policy, using both strength and diplomacy. However, the rebel group had spurned peace talks and Uganda had had no alternative but to pursue a military solution, which fortunately was proving successful; the rebels were fleeing the country and the authorities had the support of the Sudan, which was denying them sanctuary. With a view to ensuring a rapid end to the reign of terror imposed by the rebels, the Government was calling upon the international community to do more to support the comprehensive programme drawn up by the Government for post-conflict rehabilitation and development in northern Uganda and appealed to all States to execute any arrest warrants issued by the International Criminal Court for members of the LRA.

75. His delegation was encouraged by the positive developments in the situation in the Great Lakes region and was committed to supporting the peace process in the Democratic Republic of the Congo. Uganda, the Democratic Republic of the Congo and Rwanda had recently signed a Memorandum of Understanding and the Democratic Republic of the Congo and Uganda were cooperating in action to put an end to the continued ethnic tensions in the eastern part of the Democratic Republic of the Congo. Uganda did not condone impunity and favoured efforts towards reconciliation, calling for the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to be provided with robust forces. In conclusion, his delegation cautioned against the introduction of resolutions which were designed to point the finger at certain countries, thereby hampering the efforts being made in the Great Lakes region. In general, the use of double standards would inevitably be detrimental to the ongoing efforts to protect and promote human rights.

76. **Mr. Mekdad** (Syrian Arab Republic) said that his country's commitment to human rights was part of a historic, religious and economic context, the terms of which were respected and supported by the Syrian people. His Government endeavoured, on the basis of the Constitution and the law, to safeguard and protect

civil, political, economic and social rights, which were of equal importance and were inseparably linked.

77. His delegation reaffirmed in that connection that the role of the United Nations was all the more essential in view of the deterioration in the current situation, which seriously threatened the purposes and principles of the Charter as well as international legitimacy. Although some people deliberately ignored the question of respect for the collective rights of peoples and nations, such as the right to self-determination, the right to development and the right to independence free from foreign occupation and control, those rights could not be abolished since they were enshrined in the Charter and in international instruments.

78. The reform and rationalization of the work of elected bodies or of entities that addressed the question of human rights within the United Nations did not mean that those bodies might exceed the competence conferred upon them by the resolutions adopted through joint agreement by the Member States. His delegation felt it important that the United Nations should work in a coordinated, constructive and consensual manner in order to avoid any politicization by not adopting a selective approach and imposing concepts on peoples and nations that did not take account of their historical, cultural and social realities.

79. His delegation also wished to emphasize that there should be no interference in the internal affairs of third States, in particular in the relations between the developed and the developing countries. It also considered that, by focusing on the most serious and widespread violations such as occupation and aggression, those States that defended the cause of human rights would gain credibility vis-à-vis other countries.

80. Recalling that many of the reports submitted to the Third Committee addressed the situation of human rights in a number of Arab States and that they referred to the situation of those who defended such rights, he pointed out that, at the recent Arab Summit in Tunis, which had been a milestone in the joint action by the Arab countries in favour of development and modernization, the Arab leaders had insisted on the need seriously to address the fundamental problems of the region and to remedy them equitably so as to strengthen the climate of peace and security and to support the efforts being made by the peoples of the region to overcome the problems bequeathed to them by colonialism, to advance towards democracy and to protect, preserve and strengthen human rights in the Arab world. The Arab leaders had also reaffirmed their determination to lay the foundations of democracy, to extend participation in public life, in public affairs and in decision-making, in a context of the rule of law, to ensure justice and equality among all citizens, to ensure respect for human rights and the right to freedom of expression in compliance with the various international instruments and the Arab Charter on Human Rights, to ensure the independence of justice, to strengthen the role of the various elements of society and to promote the participation of all citizens, both men and women, in public life.

81. Referring to allegations concerning the question of individuals and groups working in the field of human rights, he said that the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms prohibited States from interfering in the internal affairs of third States and from being selective in their dealings with other countries. Moreover, the Declaration not only conferred rights on organizations but also imposed duties on them, obliging them, in particular, to defend the rights of individuals and peoples that had suffered from serious violations of human rights and to refrain from any discriminatory, selective or arbitrary practice or action. In that connection, his delegation reaffirmed that action by organizations must be authorized by domestic legislation, that his country could not recognize interpretations that were inconsistent with that principle, and that it was essential that the action, work and means of financing of such organizations should be clear and transparent.

82. He commended the objectivity of the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256) and hoped that the report would lead to action that would put an end to the Israeli practices that violated international humanitarian law and the elementary rules of humanity.

83. His delegation also shared the view of certain special rapporteurs who, in their reports, had referred to the imprecision surrounding the word "terrorism" and who considered that the continued use of the fight against terrorism to justify human rights violations

would have serious consequences. It was essential to define terrorism in order for international action against terrorism to be successful. The Syrian Arab Republic emphasized once again that distinction must be made between terrorism, which was a heinous crime, and the right to resist foreign occupation, which was enshrined in the Charter. He concluded by saying that the harmonization of the views of the various States and the strengthening of international cooperation required responsible, objective, impartial, non-selective and transparent dialogue based on mutual respect for national sovereignty and for the territorial integrity of States.

84. **Ms. Aghajanian** (Armenia), speaking on agenda item 105 (b), said the promotion and protection of human rights were indispensable prerequisites for development, peace and stability. By developing standards and setting up mechanisms for their implementation, the international community had established a strong international legal regime, although many challenges remained.

85. In spite of five decades of efforts, the world was still witness to the crime of genocide. Armenians, who had themselves experienced the horrors of genocide at the beginning of the twentieth century, welcomed the appointment of a Special Adviser to the Secretary-General on the Prevention of Genocide, for whom she expressed full support. She hoped an effective early-warning mechanism could be developed to prevent any recurrence of such tragedies.

86. Turning to the issue of terrorism, which nothing could justify and which must be unequivocally condemned, she said that the vicious cycle of hatred and violence must be broken, but care must be taken to ensure that the fight against terrorism did not undermine the rule of law and respect for fundamental freedoms. She therefore welcomed the appointment of an independent expert on the protection of human rights and fundamental freedoms while countering terrorism.

87. Her delegation also welcomed implementation of Action 2 of the Secretary-General's reform programme aimed at strengthening national human rights protection systems.

88. Since independence, her Government had undertaken extensive reforms to build a democratic society and promote respect for human rights. Armenia had joined the Council of Europe in 2001, thus ensuring the irreversibility of the process of transformation and her Government was working closely with the special monitoring group established to follow up on implementation of the obligations that membership in the Council implied. In that context, she noted that in September 2003 her Government had ratified Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty; in December 2003 it had adopted the Law on alternative military service, which had entered into force in July 2004; in February 2004, the first Ombudsman, a woman, had been appointed. In October 2004, the religious group "Jehovah's Witnesses" had been registered by the Ministry of Justice and the administration was working to improve electoral codes as well as the laws on the mass media and local self-governance.

89. Turning to the report of the Secretary-General on human rights and unilateral coercive measures (A/59/436), she expressed concern that information not pertinent to the subject of the report and provided by Azerbaijan (paras. 1-3), which was factually incorrect, had been included. She wondered how an intra-State conflict could be presented as a unilateral coercive measure. She recalled that the only armed forces in the region in 1988, before the dissolution of the Union of Soviet Socialist Republics (USSR), had been those of the Soviet Union, which protected the borders of the country; the only time they had been used in an internal matter had been in 1990 when they had intervened to save the Armenian population in Baku from a systematic massacre being carried out by the Azerbaijani leadership. Furthermore, in 1988 there had been no armed conflict in Nagorny Karabakh; a legal process had been initiated by the authorities and the population of the Nagorny Karabakh Autonomous Region to seek redress for the injustice done to them 60 years earlier by the existing Soviet legislation and Constitution. That process, undertaken in both chambers of the Supreme Soviet of the USSR, had been accompanied by peaceful demonstrations in the region. She stressed that the number of refugees and displaced persons continued to grow in spite of the figure of 1 million provided by the United Nations High Commissioner for Refugees in his report. Azerbaijan failed to recognize that the sad situation referred to in the report was the result of its own aggression against the people of Nagorny Karabakh in their legitimate and peaceful quest for self-

determination. As a result of that conflict, a continuous blockade had been imposed on Armenia. Rewriting history had become the trademark of Azerbaijan; her delegation therefore expressed its deep disappointment that such inaccuracies could find their way into the report of the Secretary-General.

90. **Mr. Pato** (Togo) said that his Government, in the belief that the protection and promotion of human rights must go beyond rhetoric and narrow political gain, had been the first African Government to establish a national human rights commission. All citizens, without distinction, enjoyed the right to life, liberty and education, the right to strike, and many other rights. The freedom enjoyed by all was reflected in the existence of numerous political parties and religious and cultural associations.

91. In order to combat ignorance, which hindered the promotion of and respect for human rights, it was important to prioritize training for and awareness-raising among the population. Accordingly, his Government had launched a wide-ranging awareness and training programme for the security services and personnel in the judicial system and had added a human rights component to the secondary school curriculum. It had also implemented a new, very liberal, press code.

92. The Family Code enshrined and strengthened the rights of women and children. As a result of the priority given to education for girls, 97 per cent of girls attended school. In partnership with Amnesty International, a campaign to increase awareness of the issue of violence against women had also been launched.

93. With a view to improving the situation in the country's overcrowded prisons, his Government had freed 500 common criminals. In addition, a national committee made up of representatives of the Ministry for the Promotion of Democracy and the Rule of Law, judges, police and non-governmental organizations had developed recommendations aimed at improving the rights of citizens who deal with the justice system (observance of limits on temporary detention of suspects, access to a lawyer, respect for the principle of presumption of innocence).

94. His Government welcomed acknowledgement of the principle that all rights — civil, political, economic and social — were interdependent. It also believed that the international community must seriously address the issue of sanctions imposed unilaterally, often in an arbitrary and unfair way, on certain countries, including Togo, citing a lack of democracy, because such sanctions made the life of the population even more difficult.

95. **Ms. Naz** (Bangladesh), speaking on agenda 105 (b), recalled that the Vienna Declaration and Programme of Action had reaffirmed that all human rights were universal, indivisible, interdependent and interrelated and had recognized the intrinsic link between development and human rights. She stressed that respect for those rights was deeply rooted in the history, society and conscience of Bangladesh. The Constitution embodied the principles and provisions of the Universal Declaration of Human Rights and prohibited all discrimination based on race, religion, caste, gender or place of birth. In addition, special laws ensured the rights of women, children, minorities and other vulnerable groups, and Bangladesh was a party to the core international human rights treaties.

96. Her Government attached great importance to women's issues and was trying to empower them through the use of microcredit and non-formal education, an approach which encouraged values-based rather than violent societal behaviour patterns.

97. In recognition of the role played by national institutions, her Government had created a National Human Rights Commission responsible for ensuring good governance as well as transparency and accountability in society. It had also established the Office of the Ombudsman as well as an independent anti-corruption commission, and had separated the judiciary from the executive branch and strengthened the rule of law in general. Although much remained to be done, Bangladesh took pride in its democratic and pluralistic institutions, culture of tolerance and commitment to freedom and justice.

98. Always willing to cooperate with United Nations human rights mechanisms, her Government had received the visit of three Special Rapporteurs and remained open to all constructive suggestions. At its sixtieth session, in 2004, the Commission on Human Rights had established certain new thematic mandates, in particular regarding trafficking in persons. Her delegation welcomed the appointment of a Bangladeshi as Special Rapporteur on trafficking in persons, especially women and children.

99. In conclusion, she said that a comprehensive strategy to establish global security must be based on respect for human rights and reinforced by upholding the primacy of the rule of law, fostering social justice and enhancing democracy and international cooperation.

100. **Ms. García-Matos** (Venezuela) reaffirmed her Government's commitment to the effective enjoyment of all human rights without distinction and said that the Constitution was one of the most modern in the world in the matter of human rights. The promotion of human rights, the core of public administration, was proclaimed in article 2 of the 1999 Constitution, which enshrined the highest values of the Venezuelan legal system: justice, equality, solidarity, democracy, social responsibility and the pre-eminence of human rights.

101. In the area of civil and political rights, the guiding principle adopted by the State was to abjure irrevocably any recourse to repression. That policy had enabled the excluded majority (65 per cent of the population) to regain their dignity and citizenship.

102. In the area of justice, the Venezuelan judicial system had undergone profound changes. Whereas at the beginning of 1998 some 95 per cent of judges were serving on a provisional basis, at the present time, through the system of competitive examination instituted in 1999, half the judges in the country held permanent appointments. Legal aid, guaranteed by the Constitution, was available to all, and the modernization of the judicial system was moving rapidly forward with the establishment of the new school for the magistracy and the implementation of "Juris 2000", a new system of administration of justice financed by the World Bank. Recently the State had taken the unprecedented ethical and socially responsible step of paying compensation in a total amount of 2 billion bolívares in compliance with the decision handed down by the Inter-American Court of Human Rights for human rights violations attributable to previous Governments.

103. With regard to the status of women, the Constitution guaranteed the equality of the sexes and established the same rights and obligations for men and women in all areas of family, occupational, political, social and community life. Venezuela had ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. It had passed legislation on equal opportunities for women and on violence against women, including domestic violence, and had established the National Institute for Women (INAMUJER).

104. In an effort to overcome social exclusion, the Government had embodied the principles of the Constitution in a set of social programmes, called "Missions", aimed at gradually reducing poverty in Venezuela and improving the quality of life of its citizens. Among them were the Mission Barrio Adentro (the start of a new national health system, which had already saved more than 18,000 lives), Mission Robinson (literacy and primary education), Mission Ribas (completion of secondary education), Mission Sucre (access to higher education), Plan Simoncito (early childhood education) and Mission Mercal (reduced-price foodstuffs for the poorest segments of the population and free meals for the indigent, which had benefited 8 million people). Moreover, the network of shelters set up throughout the country had provided lodging, meals, hygiene facilities, recreation, education services, health care and cultural activities for 200,000 persons in extremely difficult social situations.

Rights of reply

105. **Ms. Maw** (Myanmar), speaking in exercise of the right of reply to the statements made concerning her country by representatives of New Zealand, Australia and Canada, which were the result of a concerted campaign by certain countries, abetted by former insurgents and expatriates with their own political agendas, said that her Government exerted its best efforts to protect human rights. That was evidenced by the presence of a delegation of the International Committee of the Red Cross in Myanmar (with offices in various parts of the country), the establishment of the National Human Rights Committee in 2000, which organized seminars involving the participation of international experts, and the opening of an International Labour Organization liaison office, which had launched a human rights education programme in the secondary schools. Moreover, the Government had succeeded in reducing cultivation of opium poppy, with a resultant drop in the production of opium and heroin, a fact confirmed by the United Nations International Drug Control Programme. It had organized campaigns to help individuals suffering from HIV/AIDS or malaria to readapt and improve their quality of life. In

2003, it had established an agency responsible for promoting the rights of the child. From 1996 to 2001 the Government had put into effect a health plan to immunize the entire population. And it had instituted an "Education for All" national action plan.

106. With regard to child soldiers, the allegations against Myanmar were based on information supplied by a journalist working for a non-governmental organization. The laws of Myanmar did not permit recruitment of young people less than 18 years of age. The Government had established a high-level committee to prevent the recruitment of child soldiers; the committee had received a visit from a UNICEF representative and had recently adopted a plan of action. Among other things, the plan provided for close cooperation with UNICEF and the United Nations Resident Coordinator.

107. With regard to forced labour, Myanmar had already changed its legislation and had adopted administrative measures to monitor compliance with the laws against forced labour. It had drafted and signed an action plan in that regard in conjunction with the International Labour Organization.

108. Her delegation deplored the tendency of certain countries to use human rights issues to promote their own political interests.

109. **Mr. Uras** (Turkey) said that he was not surprised by the statement of the Greek Cypriot speaker or that of the representative of Greece but felt obliged to respond to the accusations and distortions contained in the latter's statement, which, moreover, did not take into account recent developments and the realities of the situation on the island. First of all, the Cyprus problem had not started with the Turkish military intervention in 1974 but had been prompted when the partnership government had been destroyed by the Greek Cypriots in 1963, which was the reason why the United Nations Peacekeeping Force in Cyprus (UNFICYP) had been deployed in 1964. Between 1963 and 1974, Turkish Cypriots had been forced to live in enclaves. Although the United Nations archives were full of the human rights violations the Turkish Cypriots had suffered, their sufferings for 11 years at the hands of their former partners seemed to have been forgotten. When a right-wing coup had taken place in July 1974 at the instigation of Greece, Turkey had had no choice but to intervene to save the Turkish Cypriots from total annihilation and prevent the annexation of the island by Greece. Turkey had acted as a guarantor Power within its contractual obligations and responsibilities under the 1960 agreements. In fact, human rights violations against the Turkish Cypriots were still continuing.

110. Turkey felt that the time had come to solve the Cyprus problem. Hence Turkey had supported the Secretary-General's plan, and 65 per cent of Turkish Cypriots had voted for it, whereas 75 per cent of Greek Cypriots had voted against it. As the Secretary-General had said through his Special Adviser on Cyprus, the efforts made over the past four and a half years had been to bring about reunification so as to enable a reunited Cyprus to join the European Union. He had applauded the Turkish Cypriots, who had approved the plan, which he felt represented a fair, viable and carefully balanced compromise, one that conformed to the Security Council's vision for a settlement that met the minimum requirements of all concerned. The Secretary-General had also made his views clear in his report on his mission of good offices in Cyprus (S/2004/437), particularly in paragraph 93.

111. **Mr. Israeli** (Israel) said that he deplored the lack of objectivity in the interim report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (A/59/256). That lack of objectivity brought discredit to the Commission on Human Rights, insulted Israeli victims of terrorism and did disservice to the Palestinian cause. By ignoring the corruption and the mismanagement, the incitement to violence and the collusion with terrorism, the Special Rapporteur was merely perpetuating the human rights violations, the persecution of minorities and the theft of billions of dollars that had been donated for the benefit of the most needy Palestinians.

112. The Israeli Government remained committed to the solution of two States living side-by-side in peace and security, which was the key to a settlement of the Middle East question. His Government also remained committed to the road map as the only means to achieve that solution. Israel must, however, protect its citizens and combat terrorism, especially suicide attacks, a form of terrorism that should long ago have been defined by the Committee as a crime against humanity and a war crime, and condemned accordingly. Israel had taken the initiative to withdraw from Gaza and evacuate Israeli settlements in the Gaza Strip and the West Bank. It was to be hoped that the

Palestinians would seize the opportunity to end the wave of violence and re-engage in dialogue.

113. **Mr. Iskandarov** (Azerbaijan) said that Armenia was trying to hoodwink the Committee by presenting the violent separatist movement in the Azerbaijani region of Nagorny Karabakh as a minority trying to assert its right to self-determination. In answer to the question posed by the representative of Armenia regarding the nature of the legal basis asserted by Azerbaijan, he said that the conflict could be regarded as having begun on 20 February 1988, when the regional Soviet of the Nagorny Karabakh Autonomous Region had adopted a decision to petition the Supreme Soviets of the Azerbaijan SSR and the Armenian SSR for the transfer of the Nagorny Karabakh Autonomous Region from the Azerbaijan SSR to the Armenian SSR. The procedure for changing the borders of Union Republics was stipulated in the Constitutions of the USSR and the Union Republics. Thus, under article 78 of the Constitution of the USSR, the territory of a Union Republic could not be changed without its consent. The Supreme Soviet of the Azerbaijan SSR had declared the transfer of the Nagorny Karabakh Autonomous Region to be unacceptable and impossible, based on the Constitutions of the Azerbaijan SSR and the USSR. The Autonomous Region had subsequently adopted a unilateral decision concerning its transfer to Armenia, and the Armenian Parliament had decided to incorporate Nagorny Karabakh within its borders. Before Azerbaijan and Armenia had become independent States, and before the conflict in Nagorny Karabakh had been taken into consideration by international organizations, the USSR had acted as mediator and, on several occasions, the Supreme Soviet, the Soviet Union's highest legislative body, had adopted a number of decisions, including its resolutions of 10 January and 3 March 1990, by which it had confirmed the sovereign status and territorial integrity of Azerbaijan and declared the decision taken by the Armenian Parliament and the local parliament of Nagorny Karabakh to be unconstitutional. Moreover, according to international law, the right of peoples to self-determination must be achieved peacefully. Furthermore, in accordance with the principle of territorial integrity, the right to self-determination did not imply the unilateral right of secession and must not lead to the disintegration of sovereign and independent States. Lastly, it was obvious that an ethnic group or nation could exercise its right to self-determination only once, and Armenia had done so within its own borders.

114. **Ms. Erotokritou** (Cyprus) said that Turkey had once again employed its usual rhetoric in an attempt to mask his country's own responsibility. The continued division of the island, with all its traumatic consequences, was due to Turkey's continued violation of international law through its forcible occupation of a large part of a sovereign and independent country. The decisions taken by international organs, including the Security Council and the European Union, spoke for themselves.

115. **Mr. Daratzikis** (Greece) said that Turkey had once more repeated its allegations against Greece in an effort to detract attention from its own heavy responsibility for the situation in Cyprus. For its part, Greece had limited its own statement to a brief, precise outline of the human rights situation on the island, as confirmed by the international community, in the form of Security Council and General Assembly resolutions, the conclusion of the Commission on Human Rights, and the judgements of various international judicial bodies.

116. **Ms. Rasheed** (Observer for Palestine) said that Israel should think carefully before referring to the road map as the ideal solution, since it had formulated 14 reservations to that document during its preparation, and continued to establish illegal settlements, confiscate Palestinian land, kill innocent civilians, destroy Palestinian property, and cause enormous suffering among the Palestinian population.

117. With respect to Israel's disengagement from the Gaza Strip, she cited an interview given by an adviser to the Israeli Prime Minister to the prominent Israeli newspaper *Ha'aretz*, in which he had referred to a freezing of the political process that would prevent the establishment of a Palestinian State, as well as any discussion on the refugees, the borders and Jerusalem, and had stated that the establishment of a Palestinian State had been removed indefinitely from his country's agenda. With regard to the suicide bombings, which had led to the loss of so many Israeli and Palestinian lives over the past four years, it should be recalled that the first such attack had not occurred until 27 years after the beginning of the occupation. All events should be placed in their context, and a solution to the problem required an understanding of the underlying causes of the acts committed. The answer was for

Israel to end its brutal occupation of Palestine and respect the rule of law and international humanitarian law. Recalling the recommendations of Israel's Supreme Court to the effect that there could be no security without law, she said that if Israel was not prepared to acknowledge that the Palestinians had the right to security, there would continue to be deaths on both sides.

118. **Ms. Davtyan** (Armenia) thanked the representative of Azerbaijan for his sincere attempt to present his Government's position concerning the legal bases for the conflict in Nagorny Karabakh. However, her delegation had asked how it was possible to concoct a legal basis in an effort to present an internal conflict as a unilateral coercive action.

The meeting rose at 12.50 p.m.

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Summary record of the 35th meeting
Held at Headquarters, New York, on Wednesday, 3 November 2004, at 9.30 a.m.

Chairman: Ms. Groux (Vice-Chairman) ..... (Switzerland)
later: Mr. Kuchinsky (Chairman) ..... (Ukraine)
later: Ms. Groux (Vice-Chairman) ..... (Switzerland)

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04-58813 (E)

The meeting was called to order at 9.50 a.m.

Agenda item 103: Elimination of racism and racial discrimination

(a) Elimination of racism and racial discrimination (A/59/18, 275, 276, 329, 330, 425; A/C.3/59/4)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/59/375; A/C.3/59/4)

Agenda item 104: Right of peoples to self-determination (A/59/191, 376, 425; A/59/66-S/2004/219; A/59/427-S/2004/806)

1. **Mr. Ndiaye** (Director, New York Office of the United Nations High Commissioner for Human Rights) introduced the reports submitted under agenda items 103 (a) and (b) and 104, beginning with the three reports concerning the Committee on the Elimination of Racial Discrimination and the International Convention on the Elimination of All Forms of Racial Discrimination.

2. Since the submission of the report of the Secretary-General on the Status of the Convention (A/59/275), 45 States had made the declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications, and the Comoros had ratified the Convention, thereby bringing the number of States parties to 170.

3. With regard to the report of the Committee on the Elimination of Racial Discrimination (A/59/18), he said the Committee had devoted its two regular sessions of 2004 mainly to the consideration of the reports submitted by States parties under article 9 of the Convention and to reviews, without a report, of the implementation of the Convention in two States parties. It had also adopted three decisions under its early warning and urgent procedures. At its sixty-fourth session, in March 2004, the Committee had held a thematic discussion on non-citizens and racial discrimination, as a result of which it had adopted a general recommendation proposing that States parties should adopt a number of measures in that area. At its sixty-fifth session, it had appointed a coordinator to be in charge of follow-up to its concluding observations and had established a five-member working group to examine situations under its early warning and urgent procedures. In addition, the Committee's views on the implementation of the Convention and its effectiveness (E/CN.4/2004/WG.21/10) had been transmitted to the third session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, held in October 2004. The Committee had decided to hold, at its sixty-sixth session in the spring of 2005, a thematic discussion on the prevention of genocide, to which the Special Adviser on the Prevention of Genocide would be invited, as well as a general discussion on multiculturalism; it would also consider the draft of a new general recommendation on racial discrimination in the administration of justice.

4. With regard to the report of the Secretary-General on the financial situation of the Committee (A/59/276), he noted that the amendment to article 8 of the Convention had not yet entered into force since it had not been accepted by a majority of two thirds of the States parties; he also drew attention to the fact that a number of States parties were still in arrears from the non-payment of previous assessments for the period prior to 1994.

5. The report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/59/375) focused on activities undertaken by States, the Office of the United Nations High Commissioner for Human Rights (OHCHR), other United Nations entities, international and regional organizations, national human rights institutions, NGOs and youth groups. The Intergovernmental Working Group had considered the interrelations between racism and poverty and between racism and education at its second session in early 2004. At the conclusion of its third session, it had adopted recommendations on racism and health, racism and the Internet and racism and complementary standards. The Working Group of Experts on People of African Descent, at its current session, was focusing on the impact of racism on health, employment and housing. The independent eminent experts, at their next meeting in early 2005, would be assessing the international standards to combat racism with a view to preparing complementary standards, and would be considering the work of the two other World Conference against

Racism follow-up mechanisms. The Anti-Discrimination Unit of OHCHR had contributed to two regional expert seminars for Eastern Europe and for Western Europe, on the implementation of the Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. A further seminar on the same topic, for the Asia-Pacific region, was scheduled for November 2004. It would be preceded by an intergovernmental meeting in Brazil on the health-related Millennium Development Goals, to be organized jointly with the Pan-American Health Organization (PAHO). Technical cooperation had been provided to strengthen national human rights institutions' capacity in adopting national plans of action to combat racism, to support awareness-raising initiatives and to fund small grants under the "Assisting Communities Together" project. With regard to the dissemination of information on the work of OHCHR, he said the redesigned Anti-Discrimination Unit web site would soon be in operation and that various publications had been prepared, one of which, on the dimensions of racism and produced jointly with the United Nations Educational, Scientific and Cultural Organization (UNESCO), was to appear shortly. Many activities with NGOs and youth organizations had also taken place.

6. Lastly, introducing the report of the Secretary-General on the right of peoples to self-determination (A/59/376) and the note on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/59/191), he said that, since the publication of the note, New Zealand had ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, thereby bringing the number of States parties to 26.

7. **Mr. Diène** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), speaking to agenda item 103 (a), introduced his interim report and his study on the question of political platforms which promote or incite racial discrimination (A/59/329 and A/59/330), which focused on two major issues, namely the new obstacles encountered in combating racism, racial discrimination and xenophobia, and the new approaches that were required in response. In his view, the regression noted since the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance could be attributed to several factors.

8. Firstly, legitimate efforts to combat terrorism had caused a marginalization of human rights in general and a normalization of racism in particular. New forms of racism had also appeared, targeting "terrorist-breeding groups" within society, meaning groups who were perceived to constitute a terrorist risk, which in many cases cut across traditional groupings.

9. Secondly, the fact that political leaders, the media and society at large conflated the various forms of discrimination — based on race, culture or religion — tended to confuse discussion of the nature of those phenomena and of the appropriate responses, and above all thrust the issue of the clash of cultures or of civilizations into the centre of efforts to combat discrimination and racism.

10. Thirdly, racist and xenophobic ideas were used by political parties for electoral purposes, in the guise of preventing illegal immigration, defending preference for nationals in times of economic recession or even combating terrorism, which led to a general acceptance of racist and xenophobic discourse and ultimately of racist and xenophobic acts.

11. Fourthly, whether it was the result of opportunistic politicization or a reflection of the victim mentality, the ranking of the various forms of racism and the according of levels of priority and degrees of urgency for tackling them undermined efforts to combat all forms of racism, which had the same roots.

12. Fifthly, an intellectually dangerous movement was under way, characterized by a legitimization of racism and xenophobia, as illustrated by Samuel Huntington's latest book, *Who Are We? The Challenges to America's National Identity*, whose main contention centred around the threat to the American identity posed by "Latino" groups and their culture.

13. Lastly, as societies responded to globalization by becoming more inward-looking, not only did non-nationals, immigrants and refugees tend to be rejected and subjected to discrimination, but the same also applied to national ethnic, cultural or religious groups which were different or constituted a minority.

14. In such a situation, the first priority was to strengthen legal strategies against racism by applying all international instruments and agreements, including the Durban Programme of Action. There was also an

urgent need to develop an intellectual and cultural strategy that would make it possible to confront racism by emphasizing the universal nature of the effort and the importance of multiculturalism.

15. **Mr. Vigny** (Switzerland) said that the Special Rapporteur had described accurately, in his interim report, the actions taken by the judiciary to combat racism in Switzerland (A/59/329, para. 42). He particularly approved the recommendation that States Members should take measures to ensure that the struggle against racism did not result in new forms of discrimination, and the one that drew attention to increased racism in sports. However, in his next report, the Special Rapporteur should underscore the positive role that sport could play in the struggle against racism, as stated in the Durban Declaration. The recommendation referring to the Internet was also very useful, too few States had adopted measures at the national level. In that respect, the Special Rapporteur should emphasize the positive role the Internet could play in the struggle against racism, which had also been mentioned in the Durban Declaration.

16. **Mr. Faber** (Netherlands), speaking on behalf of the European Union, asked the Special Rapporteur how he would avoid contradictions and overlap in the context of his cooperation with regional organizations in the struggle against racism, as that was crucial. He also wished to know the reason for the decline in solidarity among victims and how it could be remedied. Lastly, he would like to know how the Special Rapporteur planned to get more involved in the follow-up to his visits and the implementation of his recommendations, as indicated in his interim report (para. 12).

17. **Mr. Nürnberg** (Norway) asked what could be done at the national and international levels to make the best use of all media, including the Internet, in the struggle against racism, and why there were so few national action programmes.

18. **Mr. Nikiforov** (Russian Federation) said that the Special Rapporteur's report was tendentious and partial, because, in paragraph 27, it reproduced information that had appeared in the press from a doubtful anonymous source, where the relevant measures taken by the Government had not been taken into account. The Special Rapporteur should reassess his position when he visited the country in June 2005. It would be useful to know what had been done, with regard to recommendations and methodologies, to encourage implementation of Commission on Human Rights resolution 2004/16 on the inadmissibility of certain practices that contributed to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which had special relevance in the context of the celebration in 2005 of the sixtieth anniversary of the Second World War.

19. **Mr. Elbadri** (Egypt) said that, when the Special Rapporteur stated, in paragraph 41 of his report (A/59/330), that the situation of Coptic Christians illustrated the reality of religious and communal tensions, antagonisms and discriminatory practices, he was referring to a book by Bernard Lewis, whose remarks were not necessarily justified. In paragraph 43, the Special Rapporteur stated that ethnic and religious minorities in Egypt had borne the impact of State-sponsored or communal-based discrimination; his delegation rejected that opinion, because equal opportunities were enshrined in the Constitution.

20. He agreed with the Special Rapporteur's views on the danger of the new forms of racism, particularly those that had appeared after 11 September 2001, and the description, in paragraph 42, of the situation in the occupied Palestinian territories. He asked whether the Special Rapporteur considered that the education of children, starting as young as 4 or 5 years of age, could play a decisive role in the struggle against racism.

21. **Mr. Diène** (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), replying to a question by the representative of Switzerland concerning sport, agreed that its importance should be stressed in the struggle against racism. In his preceding report, he had noted the increase of acts and expressions of racist sentiments on sports fields, particularly football stadiums, and stressed that football should be played in an environment of friendship and mutual understanding. He had met with leaders of major sports federations, because he believed that it was their responsibility to take the first steps to prevent the problem. The previous week, he had met with the President of the International Olympic Committee, who had told him there were no incidents of racism during the Olympic Games, but the Committee followed the matter closely and would take note of any relevant information. Collaboration had thus been established between the Special Rapporteur and the relevant sports federations.

22. He agreed with the representative of Switzerland that the Internet could play a role in the struggle against racism. Even though the Internet and all the new information and communication technologies were used by those who promoted racism and discrimination, the technologies could also be used to disseminate values combating their misuse. However, the Internet was a complex issue, as it brought out the conflict between freedom of expression and respect for the values enshrined in the international instruments. A recent meeting on the issue, held in Paris, had highlighted the conflict; there was no consensus within the international community on how the Internet could be used to combat racism and discrimination.

23. In reply to a question by the representative of the Netherlands, he said that he was working towards collaboration with other mechanisms, particularly regional mechanisms. He had recently attended a meeting of the European Monitoring Centre on Racism and Xenophobia to define modalities of cooperation. It had been decided that the activities of the Observatory and the Special Rapporteur did not overlap, but that the latter would take the Observatory's work into account in his reports. He was also collaborating with the Organization for Security and Cooperation in Europe (OSCE) and was organizing a meeting on discrimination against religious groups the following week, in which representatives of the Observatory, the OSCE and the Committee on the Elimination of Racial Discrimination would take part.

24. With regard to the question of follow-up to the Special Rapporteur's visits, he said the visits should not be isolated, but rather part of a process allowing him to report as objectively as possible on the way in which countries faced problems relating to discrimination, offer constructive criticism and establish a dialogue with the national authorities. He had informed the Governments of all the countries visited that he was ready to help them implement his recommendations. Canada, for example, had invited him to return in order to examine with him in more detail the recommendations in his report (A/59/330). He therefore asked all the countries visited to authorize him to make return visits to report on the follow-up to his recommendations.

25. He did not share the opinion of the representative of the Russian Federation, who had found his description of the situation in the Russian Federation to be tendentious. He did not report merely on what appeared in the national and international press. An Asian student had recently been beaten to death in Saint Petersburg, and African diplomats had asked the Russian authorities to ensure the protection of both African students and diplomats, because aggression against foreign diplomats occurred daily. The Russian Federation was aware of the problem and had requested the Office of the High Commissioner for Human Rights and the Special Rapporteur to conduct a study on neo-Nazi groups in the country and their links to racist acts and discrimination. He thanked the representative of the Russian Federation for having informed him that the Russian Government had accepted his request to visit the country.

26. In reply to a question by the representative of Egypt, he said that it was not so much the level of education that constituted a conclusive weapon against racism and discrimination, but rather the content of education; indeed, education could serve as a vehicle for society's prejudices. Intercultural exchanges and education were very important for democratic values and human rights.

27. *Mr. Kuchinsky (Ukraine) took the Chair.*

28. **Ms. Perez** (Cuba) asked whether the Special Rapporteur was aware of the existence of codes of conduct such as those mentioned in paragraph 56 of the report (A/59/330).

29. **Mr. Sinaga** (Indonesia) said that, having examined the Special Rapporteur's report, his delegation had realized that racism and discrimination affected countries and regions throughout the world, including Europe, where there had been a wave of Islamophobic violence following the 11 September 2001 attacks, and Canada, which was not exempt from such problems. Indonesia considered that the struggle against racism and discrimination was more effective if it was supported by cooperation among the countries concerned, and it supported any initiative that promoted appropriate education. Even if Indonesia was not mentioned in the report, it could be faced with the problem and wished to know how the countries concerned were dealing with it.

30. **Ms. García Matos** (Venezuela) asked whether the Special Rapporteur could state what measures Latin American States should take in the face of the marginalization of indigenous peoples and people of African descent, who were overlooked by development.

31. **Ms. Verrier-Frechette** (Canada), referring to the interim report published under the symbol A/59/329, observed that the description of the plan of action against racism, which Canada was currently finalizing, contained several inaccuracies. She proposed to provide the Special Rapporteur with all the information he would require to correct those errors.

32. **Mr. Diène** (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), replying to the representative of Egypt, who had expressed concern at the fact that the report mentioned discrimination against Coptic Christians in Egypt, said that he basically stood by his assessment, in that tensions had always existed and still existed between the ethnic and religious communities in Egypt. He was, however, prepared to take into consideration any information that Egypt would like to give him on that subject for incorporation into later reports.

33. He agreed with the representative of the Netherlands that it was disturbing to see that many countries had neglected to draw up national action plans against racism and discrimination, on the grounds that international instruments existed, although the Durban Declaration and Programme of Action clearly stated that such plans should be elaborated at the national level.

34. Replying to a question raised by the representative of Cuba, he said that he was unaware of codes of conduct formulated by political parties. He regretted that in some countries, efforts were being made to prioritize forms and manifestations of racism for political and perhaps historical reasons, which called into question the universality and effectiveness of the fight against racism. He called on the Committee to treat all forms of racism and discrimination equally in its resolutions. He was troubled by the influence that racist and xenophobic views held by certain political parties could sometimes have on the political programmes of democratic parties, which made racist discourse seem normal by taking up certain aspects, such as immigration.

35. He said he would take note of the observation made by the representative of Canada, and promised to include the necessary corrections in his next report.

36. In reply to a question raised by the delegation of Venezuela, he noted that, historically, native Americans were the first known victims of racism and discrimination that had resulted in genocide. He also pointed out that discrimination against native Americans was still a reality, even if the countries concerned did not wish to acknowledge it — despite the fact that areas of marginalization and poverty corresponded to the geographical distribution of those peoples.

37. **Mr. Elbadri** (Egypt), responding to the remarks of the Special Rapporteur with regard to the existence of tensions between religions and communities, said he was disturbed by the reference in paragraph 43 of the report (A/59/330) to State-sponsored discrimination. He would appreciate the Special Rapporteur shedding light on that statement. Although he did not deny that tensions existed between communities and even within certain communities, he did not believe that was a problem of the scope the Special Rapporteur had suggested. He agreed with the Special Rapporteur that the best safeguard against racism and discrimination was educating young people.

38. **Mr. Diène** (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that he would meet privately with the representative of Egypt regarding the observation in question.

39. **Ms. Shameem** (Special Rapporteur on the question of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination), said, with reference to agenda item 104, that she was concerned by the fact that, despite the interest shown in 1989 for the formulation of an international legal framework adopted by the United Nations General Assembly, only 26 States, the most recent of which was New Zealand, had ratified or acceded to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. She also regretted that mercenary activities continued unabated in many areas of the world. She was aware that such matters needed to be explored from new perspectives, theoretical as well as practical, taking into consideration the geopolitical and economic realities of the twenty-first century.

40. She nevertheless wished to point out that when mercenary activities did not violate human rights or impair the self-determination of peoples, or were carried out by groups that were not made up of

mercenaries, they did not fall within her mandate. In her view, mercenaries, terrorists, freedom fighters, volunteers, part-time soldiers, rebels defending a cause and private security companies should not be lumped together, even if their activities were sometimes similar. She would rely on information from various sources, including that from the Member States concerned, and prepare comprehensive, up-to-date reports for the Third Committee and the Commission on Human Rights to be used in adopting meaningful resolutions and decisions.

41. She noted that reports formulated by the former Special Rapporteur and the information she had received from a number of representatives of Member States had given rise to comments and questions. She wondered what was the impact of the changing nature of conflicts and armed forces on the recruitment, use, financing and training of mercenaries who violated human rights and impeded the exercise of the right of peoples to self-determination; why more States Members had not yet ratified the Convention, and how that problem could be overcome; whether the proposed new legal definition of a mercenary would encourage them to do so; what States Members that had ratified the Convention thought of the new definition; whether the granting of licences to genuine private security companies and the regulation of that sector at the national and international levels would help to identify organizations engaging in mercenary activities that violated human rights and the right of peoples to self-determination; and finally, what legal and other mechanisms were in place for monitoring such activities.

42. In accordance with Commission on Human Rights resolution 2004/5, she had, within the context of the existing consultation process, circulated the proposed new definition of a mercenary to States Members and approached those who were already parties to the Convention. She planned to undertake missions to Equatorial Guinea and the United States of America in the coming months, to conduct consultations with intergovernmental organizations and non-State actors concerned with the matter as well as with Governments, and was currently assembling a database on national legislation with respect to mercenaries. She would base her work on the conclusions of the third meeting of experts on mercenaries, which would take place in Geneva in December 2004.

43. **Ms. Perez** (Cuba), referring to agenda item 104, said that her country was about to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. However, the definition of a mercenary as set out in article 1 was not sufficiently broad, and the proposal made by the former Special Rapporteur on that matter therefore provided a good basis for strengthening the Convention.

44. The new phenomenon of private security firms, which currently existed in more than 100 countries, had been well documented by the previous Special Rapporteur. If it was true, as the Special Rapporteur had indicated, that mercenary activities should not always be grouped together with terrorist activities, and that there were groups that resorted to terrorism in order to achieve certain goals but were not paid — a phenomenon denounced by all countries — there were also cases in which the two forms of activity overlapped. For example, since the triumph of the revolution in 1959, Cuba had been victimized by groups based in the United States that were both mercenary and terrorist.

45. Her delegation therefore requested the Special Rapporteur to continue to explore the question of the links between the activities of mercenaries and terrorists, as well as the question of private security firms, which were not supervised by Governments or by international organizations. It also encouraged the Special Rapporteur to complete the inquiry begun by the former Special Rapporteur in 1997 following his visit to Cuba, and asked her to pursue the investigation into the recent release of four persons who had attempted to assassinate Fidel Castro in Panama in 2000, three of whom were in the United States, enjoying absolute impunity.

46. **Mrs. Shameem** (Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination) said that, although links between terrorism and mercenaries could exist, that was not always the case.

47. **Mr. Al-Nasser** (Qatar), speaking on agenda items 103 (a) and (b), on behalf of the Group of 77 and China, said that the elimination of racism and other forms of intolerance was a goal shared by everyone, transcending borders and the development divide, as demonstrated by the World Conference against Racism,

Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa.

48. The Durban Declaration and Plan of Action, adopted by the General Assembly in resolution 56/266 of 27 March 2002, drew lessons from the past and provided the international community with comprehensive guidelines for policies and action to eliminate racism. A resolute and renewed political will, adequate funding and sustained international cooperation were indispensable for the effective implementation of the commitments, agreed upon in Durban. Such a will should be translated into concrete actions at all levels, and should promote the participation of all the relevant stakeholders. In that regard, the national human rights institutions and civil society had an essential role to play. Commission on Human Rights resolutions 2002/68, 2003/30 and 2004/88, which established mechanisms for the effective implementation of the Durban Declaration and Programme of Action, were an important step towards that goal.

49. The Group of 77 and China wished to stress the importance of the work of the two working groups established by the Commission on Human Rights to facilitate the effective implementation of the Durban Declaration and Programme of Action, and the need for regular progress reports to be submitted to the General Assembly and the Commission on Human Rights. They also emphasized the importance of the elaboration of contemporary standards to strengthen and update international instruments against racism, xenophobia and related intolerance.

50. He welcomed the commitment made by the United Nations High Commissioner for Human Rights to make the struggle against racism, racial discrimination and xenophobia a priority of her Office, in all its activities, and said he agreed that, far from being a short-term challenge, the eradication of racism required changing hearts and minds through education and persuasion, which were long-term tasks.

51. Deeply concerned by the increasing use of the new information and communication technologies, particularly the Internet, to disseminate racist slogans and incite racial hatred, when such technologies should serve as educational and awareness-raising tools, the Group of 77 and China requested that States should take the necessary measures, including legal sanctions, to fight such actions.

52. Noting that the Third Decade to Combat Racism and Racial Discrimination had ended without achieving the objectives of the Decade's Programme of Action, the Group of 77 and China wished to reaffirm those objectives within the overall framework of the implementation of the Durban Declaration and Programme of Action. They were resolved to work closely with the international community and all stakeholders towards the achievement of that goal.

53. *Mrs. Groux (Switzerland), Vice-Chairman, took the Chair.*

54. **Mr. Elbadri** (Egypt), referring to agenda item 104, noted that the principle of self-determination, which had first arisen at the beginning of the previous century, was one of the pillars of the system of human rights and international law, recognized by all the States and ratified in international conventions. Self-determination was more than a legal concept in that it represented hope for peoples who had experienced the troubled waters of occupation.

55. The right to self-determination allowed a people to choose its political, economic, social and cultural identity. It was an essential requirement for democracy. It was not a gift but a natural right, fully applicable to every one, including the Palestinian people, who were being prevented from establishing an independent state. Their struggle was legitimized by the international community, and Israel, the last bastion of colonization, must understand that its occupation of the territories was illegal and remained a source of instability and hatred which challenged coexistence between peoples. It must therefore review its policies. Failure to recognize the right to self-determination amounted to violating a principle and contradicting a moral code.

56. **Mr. Xie** Bohua (China), speaking on agenda items 103 and 104, said that his delegation associated itself with the statement made by Qatar on its behalf and on behalf of the Group of 77.

57. The Government of China had always believed that, to eliminate racism and racial discrimination, both symptoms and causes had to be addressed. Achieving that goal was primarily the responsibility of Governments, and when taking measures to eradicate the traditional root causes of racism and racial discrimination, they should not ignore their contemporary forms.

58. At the international level, China called on all States to ratify and implement the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action, and to support the work of the intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, in which it participated actively.

59. The Intergovernmental Working Group had recently held its third session, during which in-depth discussions had been held on the further implementation of the Durban Declaration and Programme of Action and on such topics as racism and health and racism and the Internet, concerning which recommendations had been adopted. He noted the introductory statement made by the United Nations High Commissioner for Human Rights to the present session, and expressed appreciation for her determination to make the action to combat racism one of the priorities of her Office in all its activities. China also wished the Working Group of Experts on People of African Descent, currently in session, great success in its work.

60. The international community must work for the restoration of all the rights of the Palestinian people, in particular their right to self-determination, in order rapidly to reach a fair and reasonable settlement of the Palestinian issue, which was indispensable to sustainable peace in the Middle East. The construction of the separation wall by the Government of Israel and the expansion of the settlements were both regrettable. The Government of China was convinced that countering violence with violence would only exacerbate tensions, and strongly supported the Middle East peace process, the principle of land for peace and the peace initiative adopted during the Arab League Summit held in Beirut.

61. In conclusion, he wished Mr. Yasser Arafat, President of the Palestinian Authority and distinguished Chairman of the Palestine Liberation Organization, and an old friend of China, a prompt recovery.

62. **Mr. Faber** (Netherlands), speaking on agenda item 103 on behalf of the European Union, the candidate countries Bulgaria, Croatia, Romania and Turkey, the countries of the stabilization and association process and potential candidates Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia and Serbia and Montenegro and the EFTA Country Iceland, said that the European Union urged all States that were not yet parties to the International Convention on the Elimination of All Forms of Racial Discrimination to ratify or accede to the Convention with a view to its universal ratification by 2005.

63. Despite the international community's adoption of the Durban Declaration and Programme of Action in 2001, racism and intolerance continued to manifest themselves and even posed new challenges. The first such challenge was terrorism and the need for a multifaceted response, which should include efforts to combat all forms of racism, discrimination and intolerance. He asked all States to be aware, however, that the fight against terrorism could seriously challenge respect for civil liberties and human rights, and that there was a risk that entire groups of people would be identified with terrorists or their supporters. Action to combat terrorism should be pursued in compliance with international human rights law, including non-discrimination norms.

64. Second, while the memory of atrocities committed in the Second World War was receding in public memory, the number of anti-Semitic incidents had increased in recent years. The European Union was committed to combating such developments. It was concerned at the exploitation of the media or the Internet to fuel messages of racism, anti-Semitism and intolerance, for example concerning the situation in the Middle East. Rejection of the policies of the Government of Israel should never be used as an argument or excuse to promote anti-Jewish prejudices.

65. Third, as people moved around the world hoping to avail themselves of the opportunities that globalization offered, new challenges were raised. Integration policies should be based on tolerance and respect for migrant groups. Ways must be found to allow immigrants to contribute to the development of the political, economic, social and cultural richness of their new homeland. It was also important to ensure social cohesion by addressing the needs of all persons and by avoiding tensions between them in an open and transparent manner.

66. The European Union was deeply concerned by the prevalence of discrimination based on work and descent, in particular caste-based discrimination which was estimated to affect 260 million people worldwide.

It noted the work accomplished on that issue in the United Nations context, including by the Committee on the Elimination of Racial Discrimination, the Subcommission on the Promotion and Protection of Human Rights and the Special Rapporteur on Racism. The European Union called on all States where such discrimination existed to intensify their efforts to combat it, including through cooperation with the Special Rapporteur.

67. Noting that the struggle against racism and discrimination, including anti-Semitism and Islamophobia, remained one of the most important goals of the European Union, he emphasized that States had the primary responsibility for combating racism. In that regard, the European Union urged all Governments to cooperate with the Special Rapporteur and the Office of the High Commissioner for Human Rights (OHCHR) Anti-Discrimination Unit and with the Committee on the Elimination of Racial Discrimination. The European Union paid tribute to their work in promoting the implementation of the Durban Declaration and Programme of Action and the International Convention on the Elimination of All Forms of Racial Discrimination.

68. He drew attention to the draft European Constitution adopted in June 2004 by the European Council, which included a Charter of Fundamental Rights. One of its articles explicitly forbade all forms of discrimination. In 2000, the European Union had adopted two anti-discrimination directives to be incorporated by member States into their national legal systems. The first banned discrimination on the grounds of racial and ethnic origin, and was aimed at equal opportunities for all with regard to employment, education and training, social security and health care. The second banned discrimination in employment based on religion and belief. These directives were backed up by a six-year 100 million euro programme in support of research, information activities and NGOs. A similar plan had also been adopted to promote equal opportunities between men and women. The plans included prevention, education and awareness-raising measures to address the root causes of racism and intolerance.

69. The European Union strongly supported the efforts made by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe with regard to awareness-raising and the condemnation of all forms of racism. He drew attention to the declarations of the Conference on Anti-Semitism, which had taken place in Berlin on 28 and 29 April 2004, and the Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination, held in Brussels in September 2004, both organized by the OSCE. The OSCE member States had also agreed to collect reliable information and statistics on anti-Semitic crimes and other hate-induced crimes, and had tasked the OSCE Office for Democratic Institutions and Human Rights to follow closely and to report to the Permanent Council incidents motivated by racism, xenophobia or related intolerance, including discrimination against Muslims and anti-Semitism in OSCE countries.

70. The European Union also welcomed the increasing priority being given by those organizations to addressing racism and discrimination against the Roma, Sinti and Travellers in Europe. In November 2003, the OSCE Council of Ministers had approved in Maastricht an Action Plan for improving the situation of the Roma and Sinti in the OSCE region. The Council of Europe was in the final stage of establishing the European Roma and Travellers Forum, an independent consultative body with a treaty-based special relationship with the Council of Europe, which would provide an international platform for those communities. The Forum would also seek cooperation with the relevant United Nations bodies. With regard to data collection, in 2004 the European Union Monitoring Centre on Racism and Xenophobia in Vienna had published a report entitled "Manifestations of Anti-Semitism in the European Union in 2002-2003".

71. The proliferation of racial discrimination and intolerance through the Internet was another serious problem. The European Union welcomed the Additional Protocol to the Convention on Cybercrime, regarding the criminalization of acts of a racist or xenophobic nature committed through computer systems, which most EU member States had signed. To combat cybercrime, the OSCE had organized a meeting on the relationship between racist, xenophobic and anti-Semitic propaganda on the Internet and hate crimes, held in Paris on 16 and 17 July 2004.

72. **Mr. Wolski** (Poland), speaking on agenda items 103 (a) and (b), said that his delegation associated itself with the statement by the European Union Presidency. However, he wished to return to the question of anti-Semitism referred to by the representative of the Netherlands. Under the Nazi

occupation his country had been the scene of the Holocaust, the most horrific crime in the history of modern Europe. Almost 6 million Jews had died, including 3 million Polish citizens. In January 2005, Poland would commemorate the sixtieth anniversary of the liberation of the death camp in Auschwitz, the symbol of genocide and extermination. However, some tended to disregard the lessons of the past or to approach them with indifference. At a time when many values were being questioned, anti-Semitism was considered by some to be less shameful than it really was, and a false understanding of tolerance had encouraged some people to give equal treatment to the oppressors and the oppressed.

73. The international community must therefore be resolute in the face of anti-Semitism, which was a threat to democracy and the values of civilization. The Durban platform served as a springboard for international action, and achievements had also been noted at the regional level. Thus, as attested by the three OSCE Conferences organized in Berlin, Brussels and Paris in 2004, European countries had taken up a number of commitments to prevent and combat anti-Semitism. They had addressed the issues of developing legislative and institutional mechanisms, education, awareness-raising and exchanges of information on best practices and concrete measures. The experience and initiatives of OSCE should be utilized on a universal level, including that of the United Nations context. Poland therefore welcomed with satisfaction the European Union proposal to include references to those OSCE conferences in the draft resolution on cooperation between the United Nations and OSCE. Poland was also satisfied that, at the latest session of the Commission on Human Rights in Geneva, several resolutions had been adopted firmly condemning anti-Semitism.

74. A few months earlier Poland had adopted a National Programme of Action against Racism, Racial Discrimination and Related Intolerance for the period 2004 to 2009. The Programme focused on education and awareness-raising, and targeted youth, through campaigns in the media, schools and other public institutions. He was especially proud of the activities undertaken by Polish NGOs, in particular the opening of the International Education Centre associated with the Auschwitz-Birkenau Museum, where the International Centre for Genocide Studies would also open shortly. An important role would be played by the Jan Karski Institute for Tolerance and Dialogue, which would be officially launched in Washington, D.C., in the spring of 2005.

75. **Mrs. Heshiki** (Japan), speaking on agenda item 103, said that, although the international community had been combating racism, racial discrimination, xenophobia and related intolerance and the General Assembly had adopted the International Convention on the Elimination of All Forms of Discrimination in 1965, the Special Rapporteur of the Commission on Human Rights stated that acts of racial violence and xenophobic ideas were increasing in many parts of the world and in all spheres.

76. Citing the High Commissioner for Human Rights, she emphasized that education and persuasion were effective means of combating hatred, arrogance and exclusion. Most people agreed that racists were not born but created through ignorance and prejudices, and that future generations needed to be educated so that they would have respect for the dignity and worth of each human being.

77. In that connection, Japan welcomed the resolution adopted by the Commissioner on Human Rights on the establishment of a world programme for human rights education involving OHCHR, UNESCO and other governmental and non-governmental organizations, and providing for a plan of action focusing on primary and secondary school education. Japan hoped that the programme would contribute to the promotion of the universality of human rights and to the reduction of violence based on racial discrimination.

78. Some of the cruellest forms of discrimination and of human rights violations had been experienced by people during and after conflicts instigated by racial and ethnic animosities. In order to avoid such animosities and consolidate peace after conflicts, the most vulnerable had to be protected and empowered.

79. The Japanese Government was committed to combating discrimination and to establishing a society in which each person was respected as an individual. Cooperation between States, international organizations and civil society would make that goal a reality.

80. **Mrs. Taracena** (Guatemala) thanked the Special Rapporteur for his visit to Guatemala in July 2004 and for his acknowledgement of her Government's efforts to implement the peace agreements of 1996 and fulfil its commitments under the agreements.

The meeting rose at 12.05 p.m.

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Summary record of the 36th meeting
Held at Headquarters, New York, on Thursday, 4 November 2004, at 9.30 a.m.

Chairman: Mr. Kuchinsky ..... (Ukraine)
later: Ms. Groux (Vice-Chairman) ..... (Switzerland)

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04-59147 (E)

The meeting was called to order at 9.40 a.m.

Agenda item 103: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism and racial discrimination (*continued*) (A/59/18, A/59/275, A/59/276, A/59/329, A/59/330, A/59/425 and A/C.3/59/4)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/59/375 and A/C.3/59/4)

Agenda item 104: Right of peoples to self-determination (*continued*) (A/59/66-S/2004/219, A/59/191, A/59/376, A/59/425 and A/59/427-S/2004/806)

1. **Mr. Kulyk** (Ukraine), speaking on agenda item 103, said that his country was firmly convinced that that the international community must face the twofold challenge of eliminating racism and elaborating the best methods and practices to prevent its resurgence. Ukraine, as home to more than 130 ethnic minorities comprising more than 20 per cent of its population, was well placed to understand the complexity of the task. It accorded a high level of priority to the objective of a multicultural, pluralistic society living in peace and harmony.

2. His delegation fully supported the recommendation contained in the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/330) that States must exercise greater control over racist and xenophobic statements and ensure that such activities were stopped (para. 57). Ukraine's Constitution, Criminal Code and Law on National Minorities had established the principles of equality and non-discrimination and created a solid basis for taking legal action against persons and organizations that fomented inter-ethnic and religious hatred.

3. Referring to the measures taken by the Ukrainian authorities to respond to manifestations of racism and to create a culture of tolerance and dialogue, as a bulwark against outbreaks of racially motivated violence, he said that a new version of the 1992 Law on National Minorities — already considered by experts as one of the most progressive of its kind — had been elaborated so as to strengthen the protecti of the rights of persons belonging to minorities and, particular, to incorporate a legal definition of a natio (ethnic) minority. In the interest of promoti constructive dialogue among organizations of eth minorities and different religious confessions, t Ukrainian authorities had created the Council Representatives for Public Associations of Natio Minorities, to advise the President, and the A Ukrainian Union of Churches and Religio Organizations. Additional measures had been taken behalf of ethnic minorities, especially in the area education. Thus, there were 21,000 schools in wh education was being provided in Russian, Romani Polish, Hungarian and other non-Ukrainian language

4. Based on its positive experience, Ukra suggested that Member States should pay m attention to the regular collection and dissemination best practices and lessons learned in the fight agai racism, for example by holding regular seminars a conferences on the issue or by establishing traini programmes for law-enforcement and judic personnel. The fight against racism and other forms discrimination was inseparable from the promotion a implementation of the fundamental values of toleran non-discrimination and respect for diversity. He dr attention to the initiative put forward by his delegati to the United Nations Educational, Scientific a Cultural Organization (UNESCO), to declare t period 2006-2015 the International Decade for t Promotion of Tolerance, in relation to which UNES had recently adopted the relevant decision.

5. **Mr. Alaei** (Islamic Republic of Iran), speaking agenda item 104, said that the right of peoples to se determination was fundamental to the realization of other rights. The universal realization of that right w an essential condition for the effective guarantee a observance of human rights and for the preservati and promotion of such rights, as provided for General Assembly resolution 58/161, paragraph 1.

6. Recalling that various resolutions of the Gene Assembly and the Commission on Human Rights h reaffirmed the rights of the Palestinian people to se determination, he said that his delegation found regrettable that Israel, the occupying Power, contin to defy those rights, in particular through the killing innocent civilians, arbitrary detentions, collect punishments and other restrictions imposed upon Palestinian people. Israel had also persisted in

construction of a separation wall in defiance of appeals by the international community and the advisory opinion of the International Court of Justice. Under the terms of that decision, the construction of the wall by Israel in the Occupied Palestinian Territory was contrary to international law and Israel was under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory and to respect the right of the Palestinian people to self-determination, as well as its obligations under international humanitarian law. The denial of the right of peoples to self-determination constituted a grave denial of fundamental human rights, and non-cooperation by occupying Powers made it imperative to adopt concrete measures.

7. **Mr. Osmane** (Algeria), speaking on agenda item 103, said that it was deplorable that distinctions of race, colour, religion, culture or ethnic or national origin had given rise to attitudes of rejection and intolerance with regard to migrants, refugees, asylum-seekers, minorities or indigenous peoples, and most often in countries where, paradoxically, democratic values and human rights were well established. Such a narrow view of human relations was born out of racist ideologies, chauvinism, cultural prejudices, intolerance and ignorance, all of which were exploited for electoral purposes and most often disseminated by the media or through the new information technologies.

8. His delegation believed that that situation was a call not only to Governments, which must accord absolute priority to the adoption of legislative and administrative measures (sanctions against those who promoted or carried out racist acts) as well as preventive measures (through education and information), but also to the international community, which must steadfastly reaffirm its commitment to the comprehensive implementation of the Durban Declaration and Programme of Action.

9. Algeria was disturbed by the lack of commitment on the part of donors with regard to the anti-discrimination unit of the Office of the United Nations High Commissioner for Human Rights, and also noted with concern that some Member States had lost interest in the work of the two working groups devoted, respectively, to the effective implementation of the Durban Declaration and Programme of Action and people of African descent. Such an attitude did nothing to advance the cause of combating racial discrimination.

10. In addition, the International Convention on the Elimination of All Forms of Racial Discrimination must be adapted to the new forms of racism and intolerance which, given their cross-border nature, required the codification of new standards. Lastly, he welcomed the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/330) and recalled that preservation of what had been achieved at Durban was a shared responsibility. To implement the texts that had been adopted at the Durban Conference was to rise up against the climate brought on by 11 September 2001 and to contradict the prophets of doom who preached the clash of civilizations.

11. **Ms. Mtshali** (South Africa), speaking on agenda item 103 on behalf of the member States of the Southern African Development Community (SADC) and associating herself with the statement made by the representative of Qatar in his capacity as Chairman of the Group of 77 and China, said that the elimination of racism, racial discrimination, xenophobia and related intolerance remained one of the greatest challenges of modern times. The Durban Declaration and Programme of Action constituted a global compact that imposed upon the international community as a whole the collective responsibility of bringing to a close that terrible chapter in human history. SADC commended the mechanisms that had been established pursuant to the Declaration and Programme of Action (the Intergovernmental Working Group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and the Group of Independent Eminent Experts). It attached particular importance to strengthening the effectiveness of those mechanisms. SADC was convinced that the international community's commitment to combat the scourge of racism could only be effective if it was backed up by the adoption of practical measures at the individual country level. It was a contradiction in terms for States to proclaim in international forums their commitment to wage that struggle, while at the same time having no national mechanism for the purpose.

12. The Committee's work would have been better served if its programme of work had not overlapped to such an extent with the schedule of the meetings of the Commission on Human Rights (in Geneva) devoted to

the follow-up to the Durban Conference and the implementation of the texts adopted there.

13. SADC welcomed the quality of the interactive dialogue between the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and all the relevant experts on the important issue of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. It hoped that the elaboration of an additional protocol would be supported by all.

14. SADC was concerned that the goal of universal ratification of the Convention by 2005 was not likely to be achieved, and therefore urged all States that had not yet done so to ratify that instrument. It also strongly urged all States to withdraw their reservations to the Convention and to make the declaration under article 14.

15. She stressed that the issues that had come under scrutiny at the third session of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (racism and health, racism and the Internet, complementary standards) advanced the agenda of the Durban Declaration and Programme of Action. In addition, while SADC welcomed the active participation of regional groups at the meetings held in Geneva, it remained concerned by attempts in some quarters to undermine the Declaration and Programme of Action. As the Committee on the Elimination of All Forms of Racial Discrimination had asserted, it was that lack of political will to ratify and implement the human rights instruments that was frustrating the efforts to combat racism, racial discrimination, xenophobia and related intolerance.

16. SADC welcomed the Secretary-General's two reports (A/59/329 and A/59/330) and noted with concern the persistent rise in the number of racially motivated incidents and acts throughout the world, as well as the Special Rapporteur's proposal to promote political vigilance with regard to parties and organizations on the extreme right. With regard to the recommendations set out in the report in document A/59/329, SADC hoped that other Member States would share their views on the subject. It welcomed the announcement made by the United Nations High Commissioner for Human Rights that the struggle against racism, racial discrimination and xenophobia would henceforth be treated as a priority common to all activities of her Office. The role envisaged for international and regional organizations was encouraging, when one considered the important contribution that such organizations had made to the eradication of racism. SADC shared the High Commissioner's opinion that the problem was not one to be solved in the short term but rather in the long run, that it required the changing of hearts and minds through education and persuasion.

17. **Mr. Osmane** (Algeria), speaking on agenda item 104, said that the right to self-determination, set out in the Charter and repeatedly affirmed, notably in General Assembly resolution 1514 (XV), was the prerequisite to the enjoyment of all other human rights.

18. The Organization's universality was grounded in the sacrifice of peoples which had, in a vast, irreversible movement of emancipation, thrown off the yoke of colonialism in order to reconquer their freedom, recover their dignity and once again take their places in the international community. Yet that work of decolonization had not yet reached completion, because still other peoples were calling upon the international community to help them exercise their inalienable right to self-determination. There was the case of the Palestinian people, who continued to proclaim their right to choose their destiny freely and establish their State with Al-Quds as capital. There were also the people of Western Sahara who for more than a quarter of a century had been demanding their right to self-determination. In that connection, Algeria, having made it a basic principle of its foreign policy to support them, would continue to uphold the principle that the Saharan people should exercise their right to self-determination in a free, impartial referendum, in implementation of the Peace plan to which the Security Council had given its unanimous support in resolution 1495 (2003).

19. **Ms. Pérez** (Cuba), speaking on agenda item 104, said that violations of the right to self-determination took the guise not only of foreign colonial occupation but also of policies that would impose domination and control on developing countries, or of theories professing a right to humanitarian intervention.

20. There could be no question of respect for human rights so long as foreign occupation and domination persisted. That was why Cuba was demanding the immediate withdrawal of Israeli forces from all

occupied Arab territories, including Palestine and the Syrian Golan, and why it supported the right of the Puerto Rican people to self-determination.

21. Mercenary activities were on the rise and were appearing under new and dangerous forms that threatened human rights and the effective exercise of the right to self-determination. Cuba was favourable to the proposals made earlier by the Special Rapporteur of the Commission on Human Rights on use of mercenaries as a means of impeding the exercise of the right of peoples to self determination, in which he classified mercenary activities as crimes, and it hailed the Special Rapporteur's work in respect of the mercenary activities and terrorist acts committed against Cuba since 1997, as he himself had been able to ascertain during his visit to the country in 1999. Her delegation agreed with the Special Rapporteur that there was a link between mercenary activities and terrorism.

22. Her delegation condemned the amnesty granted by the President of Panama, with the approval of anti-Cuban terrorist circles living in the United States and of the United States Government, to four mercenaries and terrorists caught in the act in Panama in 2000, as they plotted an attempted assassination of the Cuban President at the Ibero-American Summit. She listed the offences committed by those persons, three of whom had been given sanctuary by the United States and one of whom was hiding in Central America, constituting a threat to world peace and security.

23. Her delegation wished to reaffirm the determination of the Cuban nation to defend its right to self-determination, in the face of United States attempts to undermine that right through military invasion, threats of nuclear aggression, terrorism and biological warfare, numerous attempts to assassinate the country's chief leaders, a continuing illegal occupation of a part of Cuba's territory on which the Guantánamo naval base was situated, and the impact of a murderous embargo. The Cuban people were facing the possible threat of a new United States military aggression aimed at destroying the social and political system that they themselves, exercising their right to self-determination, had freely chosen.

24. **Mr. Gzlal** (Libyan Arab Jamahiriya), endorsing the statement made by Qatar on behalf of the Group of 77 and China, observed that the last decade of the twentieth century had been distinguished by the end of apartheid in South Africa and a respect for cultural and religious plurality, but also by acts of genocide and ethnic cleansing that were without precedent. The problems still persisted at the beginning of the new millennium, a time when the Palestinian people were prey to the most vile racist crimes perpetrated by the occupying forces.

25. As indicated in the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/329), despite the efforts made by the international community after the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001, there had been an upsurge in acts of racism and xenophobia owing to globalization, intellectual polarization, diseases like HIV/AIDS, tuberculosis and malaria, illiteracy, marginalization and poverty. It should be emphasized that there was a distinction between traditional racism, based on colour, and racial discrimination affecting immigrants and refugees primarily, and the Special Rapporteur's recommendations for putting an end to all forms of racism were welcome.

26. Referring to a number of national instruments guaranteeing non-discrimination and respect for diversity, he said that in his country the law, inspired by the Koran and the Shariah, gave great importance to human rights and to equality and social justice for all, without distinction as to race, sex, language or religion. The international community had an obligation to do more to promote tolerance. With regard to the right of nations to control their own affairs enunciated in Article 2 of the Charter of the United Nations and reaffirmed in many United Nations resolutions and in international instruments, all Member States were bound to guarantee the effective exercise of the right to self-determination. Many nations had achieved independence and had joined the ranks of the Member States of the Organization. His delegation urged Member States not to abandon the endeavour to help peoples still living under foreign occupation, like the Palestinians, to achieve independence.

27. Condemning mercenarism, particularly in Africa, his delegation called upon the international community to make every effort to put an end to the problem and urged all States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

28. **Mr. Najib** (Iraq), speaking on agenda item 104, said that the historic phase his country had been traversing since the fall of the previous regime, while it was waiting to regain its sovereignty, had been marked by important changes, among them the enactment of the Transitional Administrative Law, which offered new prospects for constitutional and legal political action during the transition period; that period had begun with the Coalition Provisional Authority and had concluded with the preparation for elections to the Iraqi National Assembly, which would be truly representative of the political trends in Iraq and would constitute the first legislative body freely elected by its citizens. Among the positive new developments in Iraq should be mentioned the establishment of freedom of the press and freedom of expression and the wide range of political issues being debated, including the issue of federalism, which was the outcome of an in-depth political vision of the situation in Iraq and was in accord with the right of peoples to self-determination.

29. His delegation hailed the contribution the United Nations had made by sending to Iraq the Special Envoy of the Secretary-General, whose mission had forged close contacts that had helped to set up the Iraqi Interim Government and to overcome the problems created by the domestic situation. The United Nations had also provided support to the efforts being made to combat terrorism and prevent any infringement of Iraq's sovereignty, and had done so despite the complications of the current international situation. In that connection, his delegation wished to reaffirm his people's right to self-determination as guaranteed in Security Council resolution 1546 (2004).

30. In the matter of human rights, his Government had chosen the right path, having created a Ministry of Human Rights, set up offices in some Iraqi prisons in order to detect any violations there, and permitted the establishment in Iraq of dozens of non-governmental organizations that enjoyed full freedom of action. The election of representatives to the National Assembly would pave the way for the establishment of a constitutional council responsible for drafting a constitution that would be submitted to the public in a referendum. Furthermore, power would be transferred peacefully to an elected Government that would reflect the new path chosen by Iraq, reaffirm the principles of the right to freedom of opinion and respect for the freedom of opinion of others, and lay the groundwork for a free, democratic, constitutional, federal and united Iraq. Despite the exceptional circumstances under which it was currently living, Iraq was in the process of regaining, slowly but surely, the place it had formerly occupied among civilized nations. The international community and the United Nations should therefore help it to re-establish its civic institutions and put a stop to the terrorist operations that had killed hundreds of Iraqi civilians and targeted their vital interests. His delegation invited donor countries who had promised to take part in the reconstruction of Iraq to maintain their pledges, pointing out that if his country was so attached to the principle of the right to self-determination — a principle it would never forswear, regardless of the circumstances — it was because it had absolute faith in democracy and freedom and because the Iraqis had already chosen the direction they would take.

31. **Ms. Rasheed** (Observer for Palestine), speaking on agenda item 103, urged the international community to ensure that the laws and institutions of all States addressed the root causes and consequences of discrimination and also secured remedies for those who suffered violations of their right to equality and justice.

32. For over 37 years, the Palestinian people had been victims of the most intricate expression of colonialism, racism and racial discrimination. The passage of time had not mitigated the suffering and misery of the Palestinians; instead, their already precarious living conditions had further deteriorated as a result of Israel's illegal policies and practices.

33. The systematic measures of oppression taken against the Palestinians could not have continued without the institutionalized racist mentality of the occupying Power. Over the past four years, those measures had taken the form of war crimes, State terrorism and systematic human rights violations *against the Palestinian people*. As a result, over 3,340 Palestinians had been killed and over 50,000 injured, many of whom would suffer permanent disabilities for the rest of their lives. The collective punishments imposed (curfews, closures and restrictions on movement) clearly reflected the racist policies practised by Israel.

34. The occupation had been transformed into a colonial phenomenon with the transfer of over 400,000 Israeli settlers to lands forcibly confiscated from the Palestinian people and the construction of bypass roads which created a "road apartheid" that even South

Africa had never known. Referring to the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256) and the advisory opinion of the International Court of Justice of 9 July 2004, she said that the construction of the Wall should be seen in the context of the illegal settlement campaign being pursued by Israel, contrary to international law. Settler colonialism was rooted in racism and racial discrimination, negating as it did the most basic rights of the indigenous population.

35. Israel had prevented the return of over 4 million Palestinian refugees uprooted from their homes and land in 1948, in defiance of international law and United Nations resolutions. Those refugees continued to be deprived of their civil, political and national rights on solely religious grounds. Hundreds of thousands of refugees were unable to obtain passports, as a result of which they were forced to live in extremely difficult conditions, whereas the occupying Power automatically granted citizenship to Jewish people from all over the world for settlement on land confiscated from the Palestinians.

36. As for the situation in Israel itself, over 1 million Israelis of Palestinian origin continued to suffer xenophobia, racial discrimination, racial violence and hate speech. They could not achieve equality and collective rights in a State which defined itself as the State of the Jewish people and which subjected their Palestinian sisters and brothers living in the Occupied Palestinian Territory to a cruel and dehumanizing form of military occupation. Israel had no constitution and was the only country in the world to differentiate between citizenship and nationality, which served to further the institutionalized discrimination against Palestinians living in Israel as second-class citizens.

37. In all spheres of public life, racism was becoming more explicit, blatant and vehement. Overtly racist and insulting remarks continued to be made by high-ranking officials of the State, army generals and even religious leaders. The "transfer" of the Palestinian people to which some Israeli officials had referred was simply a euphemism for ethnic cleansing.

38. She appealed to the international community to exert every effort to relieve the Palestinian people living in the Occupied Palestinian Territory, including East Jerusalem, of the hardships and anguish which they faced owing to the racism and racial discrimination of the occupying Power. Steps must be taken to end the occupation and the colonization of Palestinian land. The rights of Palestinian refugees must be restored and Israelis of Palestinian origin must enjoy the same rights as the rest of the population. The establishment of a Palestinian State, with East Jerusalem as its capital, should allow all Palestinians everywhere to live in a world free of racism and racial discrimination where their human dignity would be honoured and their rights and fundamental freedoms respected.

39. *Ms. Groux (Switzerland), Vice-Chairperson, took the Chair.*

40. **Mr. Najib** (Iraq), speaking on agenda item 103, said that the international community should assume its collective humanitarian responsibility by working effectively, through peaceful means, to eliminate racism, racial discrimination, xenophobia and related intolerance. The international community had already adopted a body of international instruments and declarations, most recently the Durban Declaration. He also drew attention to the International Covenant on Civil and Political Rights, in particular article 2, article 18 on freedom of religion, article 21 on the right of peaceful assembly and article 22 on freedom of association. The Interim Government of the new Iraq had laid the foundations for determined action against racial discrimination, in accordance with firmly established constitutional principles based on respect for the legitimate rights of all minorities in the context of Iraq's territorial unity and sovereignty.

41. Iraq's Interim Administrative Law guaranteed the equal treatment of minorities and prohibited all forms of discrimination against citizens of all ethnic and religious groups. Article 7 (b) of the Law provided that Iraq was a multi-ethnic country and that the Arab section of the population formed an integral part of the Arab nation as a whole. Moreover, article 12 of the same Law laid down equal rights for all Iraqi citizens, without distinction as to sex, opinion, ethnicity, religion, creed or birth, and declared that all citizens were equal before the law. For the first time after decades of arbitrary rule, tyranny and violation of the rights of its citizens, Iraq was in the process of strengthening those rights which, like the right of full participation in civil and political life, were guaranteed to all without distinction. It was also rebuilding its national constitutional authorities and institutions with a view to firmly entrenching the principles of

democracy and respect for the human rights and fundamental freedoms of all Iraqis, regardless of ethnicity. The Interim Government of Iraq was composed of 35 ministers, including 6 women. Fundamental freedoms were also recognized in all areas of information and culture and dozens of parties and governmental organizations had been created. His country rested on inimitable cultural foundations that guaranteed to the Iraqi people their right to self-determination and freedom of choice. He therefore hoped that the international community would help Iraq to rebuild its civil institutions within the framework of a free, democratic, pluralist and federal regime that was capable of bringing together all Iraqis.

42. **Mr. Jenie** (Indonesia), associating his delegation with the statement made by Qatar on behalf of the Group of 77 and China, recalled that in its Programme of Action, the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance had urged States to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and to design national action plans to combat racism.

43. With a view to preserving its ethnic, cultural and linguistic diversity, Indonesia had become a party to the Convention in 1999, as part of the implementation of its national plan of action on human rights for 1998-2003. On 25 August 2004, Indonesia had launched its second national plan of action, which contained the concrete measures it would take during the period 2004-2009 to eliminate all forms of racial discrimination.

44. Citing amendments to the Constitution and reviews of other national legislation, he explained that his Government was working to promote tolerance and respect for diversity and was taking all necessary legislative, judicial, regulatory and administrative measures to reach that goal.

45. Concerned by the rise in racism and racial discrimination in the world, Indonesia called on the international community to combat terrorism while at the same time ensuring respect for human rights.

46. On the issue of self-determination, his delegation called attention to the plight of the Palestinian people and urged Israel to implement all relevant United Nations resolutions, in particular the resolution concerning the construction of the wall (A/RES/ES-10/15) adopted by the General Assembly in July 2004 during its tenth emergency special session.

47. World peace and prosperity could not be achieved without tolerance and respect for diversity. Invoking the Charter of the United Nations, he said that all peoples, without distinction, must be allowed to contribute to, and benefit from, human development.

48. **Mr. Tiwana** (Pakistan), speaking on agenda item 104, stressed that the right to self-determination, which was among the 14 points set out by President Wilson at the end of the First World War, was enshrined in the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960), and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations (1970).

49. During the second half of the twentieth century, the affirmation of that principle had led to the decolonization of a majority of the States that currently made up the United Nations. Pakistan and India had been created on the basis of the right to self-determination; unfortunately, however, the inhabitants of Jammu and Kashmir had been denied that right.

50. With a view to peacefully settling the problem of Jammu and Kashmir, Security Council resolution 47 (1948) had envisaged demilitarization and the holding of a plebiscite. The United Nations Commission for India and Pakistan (UNCIP), established in 1948, had been mandated to arrange a cessation of hostilities and to hold a free and fair plebiscite in the State of Jammu and Kashmir. Two UNCIP resolutions (of August 1948 and of January 1949) had facilitated a ceasefire and the deployment of the United Nations Military Observer Group in India and Pakistan.

51. The demilitarization of the State of Jammu and Kashmir — a prerequisite for the holding of a plebiscite — had caused difficulties, and recourse to arbitration had been rejected by one of the parties. A United Nations Representative for India and Pakistan had then been appointed and his report had served as the basis for Security Council resolution 91 (1951), which observed that the Governments of India and Pakistan had accepted the provisions of the UNCIP resolutions and had reaffirmed their desire to hold a free and impartial plebiscite, set out the main points of difference between the two parties, and instructed the United Nations Representative to proceed to the sub-

continent to effect the demilitarization of the State of Jammu and Kashmir.

52. Proposals adopted in the early 1950s to implement the resolutions on Kashmir had not led to agreement on the holding of the plebiscite, and during the past 15 years, over 80,000 Kashmiris had died and massive violations of human rights had occurred.

53. Pakistan extended political, moral and diplomatic support to the struggle of the Kashmiri people for self-determination. It had always endeavoured to find a peaceful solution to the dispute. On 22 September 2004, the President of Pakistan had told the General Assembly that Pakistan and India had initiated confidence-building measures and begun a dialogue with a view to addressing all outstanding issues, including that of Kashmir, finding a just and honourable solution acceptable to all, and putting an end to violence and terrorism.

54. On 24 September 2004, the President of Pakistan and the Indian Prime Minister had agreed to explore possible options for a peaceful settlement of the issue. In that spirit, the President of Pakistan had told the national media to initiate a debate on possible solutions to the dispute. It seemed clear that demilitarization was essential.

55. The problem must be settled, as otherwise the dispute could jeopardize long-term peace and stability in South Asia and the prosperity of the region.

56. **Mr. Grigore** (Republic of Moldova), speaking on agenda item 104, recalled that the right of peoples to self-determination was a universal principle, and one of the foundations of the United Nations. It was through the exercise of that right that most of the Member States had come into existence, and the fulfilment of that right was the foundation for the enjoyment of all other fundamental rights.

57. At the same time, according to General Assembly resolution 2625 (XXV) and the Vienna Declaration (1993), self-determination should not impair the independence, territorial integrity or political unity of sovereign and independent States.

58. Over recent decades, many regions of the world had experienced intra-State conflicts. Separatist and extremist groups had sometimes invoked the right to self-determination to serve their political purposes, which had nothing to do with any specific ethnic or religious identity, deliberately failing to recognize that the right to self-determination meant that people could freely determine their political, economic and social systems within their national borders. Such separatist movements had undermined development and threatened the foundation of democratic States. The concept of self-determination could be taken out of context and used to encourage terrorism and violence. Secessionists and extremists, receiving support from abroad, were infringing on the territorial integrity and the sovereignty of certain States — among them the Republic of Moldova, whose eastern districts were controlled by a mafia-like clan. The separatist regime was attempting to bring about the organization of a referendum on independence, although the people of Moldova had already decided on their future 13 years earlier. Along with the Organization for Security and Cooperation in Europe (OSCE), which had already voiced its concerns, the international community must strongly condemn such practices.

59. Partial views and misconceptions on the scope of self-determination could only encourage separatism and other destructive movements, although self-determination was a fundamental right for those who were still subject to foreign domination.

60. Self-determination could not be achieved through the abuse of human rights, less still by persecution or discriminatory policies. Tolerance and a spirit of compromise, rather than secession and separatism, allowed for the expression of ethnic, religious and political identities within democratic States.

61. The Republic of Moldova, as a multi-ethnic society, was fully committed to the observance of human rights, and to their enactment in law, and was monitoring respect for the rights and identity of minorities, with a view to ensuring stability, democracy and prosperity in that country.

62. **Ms. Kusorgbor** (Ghana), speaking on agenda item 103, noted that racism and racial discrimination were obstacles to peace and harmony throughout the world, and that intolerance and lack of respect among people of different races had led to serious human rights violations.

63. Three years after the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, it was evident that, rather than an intensification of the fight against racism and racial discrimination, the world was witnessing a disturbing

increase in such manifestations and in discrimination against non-nationals, refugees and immigrants.

64. In his interim report (A/59/329), the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance suggested that, owing to the ideological context, the issue of discrimination was in the process of transformation. That was regrettable. All forms of discrimination should be dealt with as such and set apart from ideologies or political theories.

65. Combating discrimination required determined efforts and close collaboration among all actors. To counteract the dissemination of the negative ideas, concepts, images and perceptions that underlay acts of racism and discrimination and to make all individuals aware that all human beings were born equal in rights, stress should be laid on education and public awareness. They were the key, moreover, to combating the misuse of the Internet, a useful tool, but one that was increasingly becoming a medium for the dissemination of racist propaganda.

66. The resurgence of xenophobia had eroded the effectiveness of legal instruments. Her delegation endorsed the recommendation of the Special Rapporteur on the need to address the deep cultural roots of racism. The High Commissioner for Human Rights had prioritized the struggle against racism, racial discrimination and xenophobia.

67. In order to ensure effective implementation of the goals of the Durban Declaration and Programme of Action, there was a need to strengthen international cooperation and to enhance public awareness about racial and ethnic diversity and values, placing the preservation of identity, culture and fundamental rights at the heart of the fight to overcome the unfortunate phenomenon of racism.

68. **Mr. Zeidan** (Lebanon) stressed the importance and universality of equal rights and self-determination of peoples, the illegality of foreign occupation and the establishment of settlements on foreign territory, and the right of refugees to return to their homes.

69. In the Special Rapporteur's study on the question of political platforms which promoted or incited racial discrimination (A/59/330), Lebanon's civil war was cited as an illustration of the "tragic consequences of ethnic and communal polarization". His delegation wished to point out that the amended constitution adopted in 1990, after 15 years of war, recognized the equality of all citizens, the need for a balanced development of the regions and the right of citizens to reside in any part of the territory. The constitution prohibited any geographic distribution of the population on the basis of affiliation. Moreover, the country's Penal Code provided for the punishment of acts of incitement to religious or racial hatred and prohibited associations founded for that purpose. Lebanon was opposed to any policy, discrimination, doctrine or theory based on the notion of racial or ethnic superiority. Since 1971 it had been a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

70. As the Special Rapporteur highlighted in his report, terrorism had fuelled conflicts among groups, communities, religions and cultures that had peacefully coexisted before. Hence terrorism must be combated in all its forms, including State terrorism. The situation of the Palestinian people, who were victims of discrimination, was unacceptable. The report courageously noted that the "security wall" constituted "a jarring symbol of seclusion" and had contributed to the rise of racism in the world in the form of Islamophobia and anti-Semitism. With reference to the report of the Secretary-General on the right of peoples to self-determination (A/59/376), which reported the advisory opinion of the International Court of Justice on the construction of the wall by Israel, his delegation called upon the General Assembly and the international community to give special attention to the violation of the right to self-determination resulting from foreign occupation and the use of mercenaries. Palestinians had the right to return to their homeland in an independent Palestinian State. Lebanon rejected all attempts to settle Palestinian refugees on its territory.

71. As for the struggle against anti-Semitism, it was inherently tied to struggle against all forms of oppression. In that regard, one should not fall into the error, pointed out by Noam Chomsky, of confusing criticism of State policy with anti-Semitism.

72. **Mr. Tekle** (Eritrea), speaking on agenda item 104, recalled that the principle of self-determination had inspired the struggle against colonialism, foreign occupation and racism, including apartheid. However, the process of decolonization, which had raised the number of States Members of the United Nations from 52 to 191, was not yet complete, and those peoples who continued to suffer under colonial subjugation or

foreign occupation and racism must be helped to be free. Eritrea was committed to their cause, since its own people had had to struggle for 30 years to exercise their right to self-determination.

73. The right to self-determination also meant that States were masters of their national wealth. Respect for the latter right was a cornerstone of peace and the development of good-neighbourly relations, and coercive diplomacy of any kind should be condemned. Any attempt by a State or group of States, acting through United Nations resolutions or any other means, to impose coercive measures restricting the control of another State over its resources or requiring another State to enter into an agreement granting concessions was a violation of the provisions of the Charter of the United Nations and the relevant human rights instruments. The preservation of international peace and security could only be achieved through respect for international law, in particular the principle of *pacta sunt servanda*, for the rule of law and for the decisions of arbitration commissions.

74. Intra-State conflicts had given a new significance to the right to self-determination. The principle needed to be adopted to resolve the problems emanating from ethnic conflicts while protecting the sovereignty and territorial integrity of States and opposing the electoral gerrymandering and balkanization that one ethnic group might impose. Reorganizing a State on the basis of ethnic federalism and enshrining in the constitution the right of any ethnic group to secede from the federation would end by breaking up the State and bleeding it white.

75. The new generation in Eritrea was ready to defend every aspect of their right to self-determination, which was not only inviolable but also non-abridgeable and could not be compromised for the sake of normalization of relations. Some parties were trying to impose an unjust and unequal treaty through intimidation, not realizing that the effort could only promote insecurity and instability and result in regional chaos. Only Eritreans could exercise their right to self-determination and determine their future, and they would fight rather than be defrauded once again.

76. **Mr. Majewski** (Observer for the International Federation of Red Cross and Red Crescent Societies), speaking on agenda item 103, said that the constructive work done by the International Red Cross and Red Crescent Movement at its statutory meetings at the end of 2003 was embodied in a resolution adopted by the Movement's Council of Delegates, which recognized that discrimination and intolerance actively jeopardized the efforts of civil society and Governments to build prosperous and sustainable communities. It was important that the General Assembly should recognize that racism, ethnocentrism, xenophobia and intolerance were major threats to sustainable development as well as to international peace and security.

77. The Federation had made a pledge on non-discrimination and respect for diversity at the twenty-eighth International Conference of the Red Cross and Red Crescent in December 2003. The pledge could be found on the Internet at >http://www.ifrc.org/what/values/docs/2003-IC-Fed-Pledge-eng.pdf<. In order to fulfil that pledge, the Federation had undertaken initiatives in a number of countries. In Bosnia and Herzegovina, for example, the "Friendship without Borders" programme run by the local Red Cress society in collaboration with the Norwegian Red Cross aimed to rebuild relationships among young people from all the former Yugoslav republics. The Icelandic Red Cross, with the support of the Ministry of Social Affairs, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration, provided support to refugee families. In Sierra Leone, the Community Animation and Peace Support Project was being carried out by the Sierra Leone Red Cross.

78. Many of the national Red Cross and Red Crescent societies in different parts of the world had identified discrimination based on xenophobia or racism as a priority challenge, with a direct linkage to paragraph 115 of the Durban Programme of Action concerning the key role that politicians and political parties could play in combating racism.

79. Recognizing that success depended on cooperation, the Federation was working closely with the International Committee of the Red Cross and convening a group of experts to work towards the implementation of the commitments contained in the resolution adopted by the Movement's Council of Delegates. The group would be meeting in Geneva in December 2004, and it was to be hoped that it would find inspiration in the debates taking place in the current session of the General Assembly and in the work of the treaty bodies. The Federation believed that the struggle against discrimination did not require new treaties or new laws. In nearly all countries the legal basis for action was in place. What was missing was

the commitment and the concrete measures called for in the Durban Declaration. That was why the members of the Federation were reaching out more and more to their Governments. The Federation hoped that the resolutions that the General Assembly would adopt at the current session would take that cause further and encourage wider consultation with national organizations.

80. In closing, the Federation wished to commend the energetic work done by some regional organizations, such as the Office for Democratic Institutions and Human Rights of OSCE, whose work throughout Europe and sometimes beyond could serve as an example to other regions of how to organize their efforts more effectively.

81. **Mr. Nebie** (Burkina Faso), speaking on agenda item 103, noted in document A/59/275 that 169 States had signed or ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and encouraged the Secretary-General to continue his efforts to ensure its universality and extend its scope. Burkina Faso commended the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for his objectivity. It noted with great concern, from reading his reports (A/59/329 and A/59/330) that the statements of certain politicians revealed a resurgence of racism and xenophobia. Sports and new information and communications technologies were exploited for racist and xenophobic purposes and religion and culture themselves had become the targets of deliberate acts of discrimination. His delegation fully endorsed the Special Rapporteur's conclusions and recommendations, which proposed appropriate solutions, and invited all delegations to support the relevant draft resolution. It also welcomed the priority which the High Commissioner for Human Rights had given to the fight against racism in her report and assured her of its full support.

82. Burkina Faso, which had made integration a cardinal principle of its foreign and domestic policy, had instituted annual integration days during which all the foreign communities came together to participate in sports, cultural and recreational activities. True to its ancestral customs which considered the stranger as sacred, Burkina Faso welcomed foreigners to its territory and granted them the same rights as nationals, along with the possibility of obtaining its nationality and working in the civil service.

83. Some 60 ethnic groups with different cultures and religions lived together in harmony in Burkina Faso, a harmony that was strengthened by the ancestral custom of "*parenté à plaisanterie*", a factor of unity and understanding that governed social relations among communities. In order to reinforce and perpetuate the sense of belonging to the same community, since 2002 the Government of Burkina Faso had observed 16 November as the International Day of Tolerance and awarded the Gold Star of Tolerance prize on that day.

Statements in exercise of the right of reply

84. **Mr. Israeli** (Israel), in reply to the statement made by the Observer for Palestine, said that the Palestinian delegation, rather than giving lessons on racism, would better serve its people by eliminating the constant incitement to hatred in the schools, publications and the media. Indeed, it would be much better if the Palestinian leadership, rather than supporting terror, which was the enemy of both peoples, met its obligation to eliminate it. The security barrier built by Israel was a temporary defensive measure to contain terrorism, the main obstacle to peace in the region. Israel was a tolerant State where Jews and Arabs, as well as individuals belonging to other races, religions or ethnic groups, lived freely in a liberal and democratic society. Israel was making major efforts to make peace with its Palestinian neighbours by fostering an atmosphere of mutual recognition, and it hoped that they would become partners in peace.

85. **Mr. Kadiri** (Morocco), in reply to the statement made by Algeria under agenda item 104, said that once again, Algeria wished to stir up controversy within the Committee and give delegations incorrect information regarding the Moroccan Sahara. Morocco rejected its allegations and generalizations concerning that region, which had been decolonized during the 1970s and returned to Morocco, like all the other parts of Moroccan territory under Spanish colonization. He invited Algeria to settle the artificial dispute it had entered into with Morocco, as recommended in resolution 1570, which the Security Council had adopted on 27 October 2004, in which it requested the parties and neighbouring States to end the current impasse and to achieve progress towards a political solution.

86. **Ms. Rasheed** (Observer for Palestine) said that the statements of the representative of Israel presenting

his country as a tolerant democracy were perplexing to her, as Israeli basic law 1A affirmed that the State of Israel was a Jewish state. Israel's practice of favouring the interests of Jewish citizens, especially in a country where 20 per cent of the population was not Jewish, opened up the possibility of legal and racial discrimination. It was a clear and proven fact that the Jews enjoyed special rights and privileges that the indigenous population, which had been there for many years, did not. She wondered how Israel could call itself a democratic country guaranteeing equal rights for all when restrictions applied to non-Jews, in particular concerning land ownership. She referred to a law recently adopted by the Israeli Parliament and denounced by many human rights organizations as racist, undemocratic and discriminatory, which prevented Palestinians from the occupied territories from settling in Israel and denied them the possibility of obtaining Israeli citizenship. That law had affected thousands of families living in Israel, which had either been forced to separate or emigrate. The Israeli Government justified that law on the grounds of security and the need to reduce the threat of attacks on the country. High Israeli officials had said that the Palestinian citizens of Israel were a demographic threat and a threat to the Jewish character of the State of Israel. Israel had established two different regimes, applied to two communities living in two different zones governed by two different types of laws. Moreover, one of those communities lived on land that it had confiscated from the other. As for incitement to hatred, it appeared to her that it was exactly what Israel was doing by making insulting comments about Palestinians. As an example, she quoted the statement of the Minister of Transport who, in speaking of Palestinian prisoners, had said that he could transport them but that he would prefer to drown them in the Dead Sea. In her view, it was important to place the entire situation in the context of the occupation: the current difficult situation was the result of practices which Israel, the occupying Power, used against the Palestinian population.

87. **Mr. Osmane** (Algeria), replying to the representative of Morocco, reaffirmed, first of all, that the question of Western Sahara was a problem of decolonization which was the responsibility of the United Nations and which should be resolved through the application of the resolutions which United Nations bodies had adopted on the subject and the exercise by the people of Western Sahara of their inalienable right to self-determination. Second, Algeria was not a party to the conflict, as the various resolutions adopted on the question had clearly identified the parties involved as Morocco and the Polisario Front. Third, as support for the right of peoples to self-determination was a cardinal principle of its foreign policy, Algeria, which had supported all peoples fighting for their freedom and dignity, would continue to uphold the principle of the exercise by the Sahrawi people of their right to self-determination.

88. **Mr. Kadiri** (Morocco) said that the very fact that Morocco and Algeria were involved in a debate proved that the two countries were parties to the regional dispute. As he had already recalled, Moroccan Sahara had been decolonized during the 1970s and definitively reintegrated into the mother country like the other parts of Moroccan territory under Spanish colonization. Furthermore, he stressed that resolution 1570 (2004) just adopted by the Security Council recalled previous Council resolutions (including resolution 1359 (2001) concerning the Framework Agreement confirming Moroccan sovereignty over the Sahara), and called on the parties to go beyond all those resolutions and to achieve progress towards a new mutually acceptable political solution.

89. **Mr. Osmane** (Algeria) said that he had nothing to add to his previous statement.

The meeting rose at noon.